

Sexual Misconduct – Title IX Advisor Training



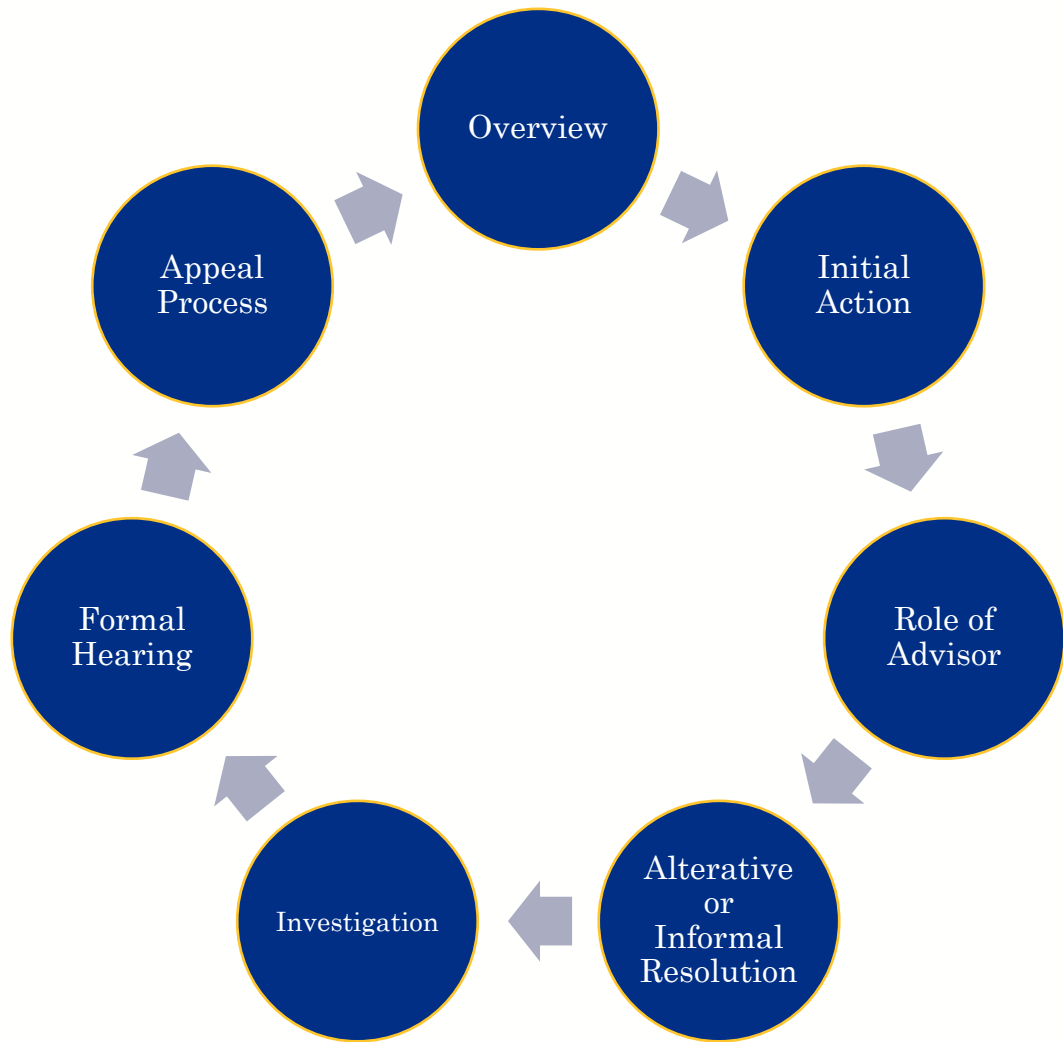
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What do you want to know or understand by the end of the presentation?

Agenda for the General Section



Overview



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Sexual Misconduct Overview

The University of North Georgia is committed to providing a safe work, learning, and living environment free from Sexual Misconduct, assault, harassment, discrimination based on sex, sexual orientation, or gender-related identity.

In accordance with federal and state law, including Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act of 1964, the University prohibits discrimination on the basis of sex in any of its education programs, activities, or employment.

The Title IX law states: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...”



General Definitions

- **Complainant** – A student or employee alleged to have experienced conduct that violates the UNG Sexual Misconduct Policy.
- **Respondent** – A student or employee alleged to have engaged in conduct that violates the UNG Sexual Misconduct Policy.
- **Advisor** - An individual who may attend any portion of the conduct process at the request of a Respondent or Complainant to advise their Party. The Parties may have anyone serve as their Advisor, including an attorney (at their expense).

Role of Title IX Coordinator

- Coordinates the University's compliance with the Sexual Misconduct Policy, Title IX, and other federal and state laws and regulations relating to sex-based discrimination.
- Oversees procedural integrity
- Oversees the grievance process and helps ensure the written and applied processes are the same.
- Ensures investigators, decision-makers, informal resolution officers, and appeals officers are properly trained
- Makes decisions on new issues that arise to maintain compliance with the Sexual Misconduct Policy

Scope: Title IX vs. Non-Title IX

Title IX Scope

- **Location:** In the United States, on University property, or at University-sponsored or affiliated events.
- **Control:** The University exercises substantial control over both the Respondent and the context or in buildings owned or controlled by an officially recognized student organization

Non-Title IX Scope

- **Location:** Domestic or abroad, University property, institution-sponsored or affiliated events, or off-campus.
- **Control:** Consideration is given as to if the Complainant and Respondent are students or employees at the time of the incident or report.

Note: Within the Title IX regulations are additional pieces to the scope. However, the University has incorporated those elements into the overall UNG Sexual Misconduct Policy. The above differences will determine (1) if an alternative or informal resolution process is used, (2) if an employee Respondent case can be resolved informally, and (3) the role of an advisor in a hearing.

Prohibited Conduct

- Sexual Harassment
- Dating Violence
- Domestic Violence
- Stalking
- Sexual Exploitation
- Non-Consensual Sexual Contact
- Non-Consensual Sexual Penetration



Sexual Harassment: Student on Student

Unwelcome verbal, nonverbal, or physical conduct based on sex (including gender stereotypes), determined by a Reasonable Person to be so severe, pervasive, **AND** objectively offensive that it effectively denies a person equal access to participate in or to benefit from an institutional education program or activity.



Sexual Harassment: Other than Student on Student

Unwelcome verbal, nonverbal, or physical conduct based on sex (including gender stereotypes) that may be any of the following

- Implicitly or explicitly a term or condition of employment or status in a course, program, or activity;
- A basis for employment or educational decisions; or
- Is sufficiently severe, persistent, **OR** pervasive to interfere with one's work or educational performance creating an intimidating, hostile, or offensive work or learning environment, or interfering with or limiting one's ability to participate in or to benefit from a University program or activity.



Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant.

Dating violence includes but is not limited to...

- Sexual or physical abuse
- Threats of sexual or physical abuse

Note: The existence of such a shall be determined based on the totality of the circumstances (i.e., length of the relationship, type of relationship, frequency of interactions between the parties).



Domestic Violence

Violence committed by a

- current or former spouse or intimate partner of the Complainant;
- person with whom the Complainant shares a child in common;
- person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant.



Stalking

Engaging in a course of conduct directed at a specific person that would cause a Reasonable Person to fear for their safety or the safety of others or suffer substantial emotional distress.

- A course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with person's property.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily, require medical or other professional treatment or counseling.



Sexual Exploitation

Taking non-consensual or abusive sexual advantage of another for one's own advantage or benefit or for the benefit or advantage of anyone other than the one being exploited. Examples of sexual exploitation may include, but are not limited to, the following:

- Invasion of sexual privacy;
- Prostituting another individual;
- Non-Consensual photos, video, or audio of sexual activity or intimate body parts;
- Non-Consensual distribution of photo, video, or audio of sexual activity or intimate body parts, even if the sexual activity or capturing of the activity was Consensual;
- Intentional observation of non-consenting individuals who are partially undressed, naked, or engaged in sexual acts;
- Knowingly transmitting an STD or HIV to another individual through sexual activity;
- Intentionally and inappropriately exposing one's breasts, buttocks, groin, or genitals in non-consensual circumstances; and/or
- Sexually-based bullying.



Non-Consensual Sexual Contact

Any physical contact with another person of a sexual nature without the person's Consent.

It includes but is not limited to touching a person's intimate parts (such as genitalia, groin, breasts, or buttocks); touching a person with one's own intimate parts; or forcing a person to touch their own or another person's intimate parts.

This provision also includes “Fondling” defined by the Clery Act.



Non-Consensual Sexual Penetration

Any penetration of the vagina, anus, or mouth by a penis, object, tongue, finger, or other body parts; or contact between the mouth of one person and the genitals or anus of another person without the person's Consent.

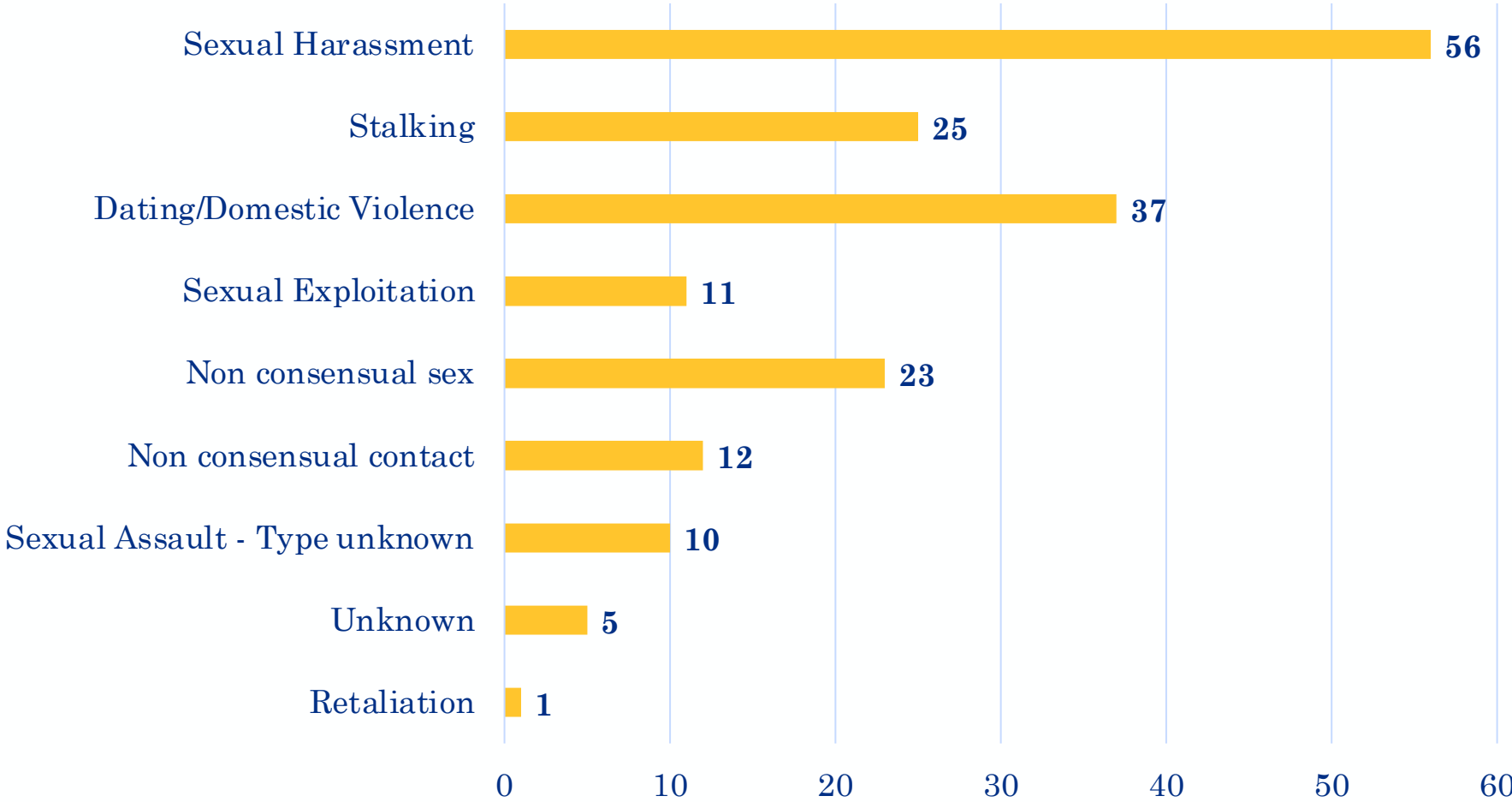
This provision also includes “Rape, Incest, and Statutory Rape” as defined by the Clery Act.

2022 Statistics for UNG



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Allegation Categories



Demographics of Complainants

Status

- Students – 160
- Faculty – 1
- Staff – 2
- Unaffiliated – 3
- Unknown – 0

Affiliations

- Corps of Cadets* – 10
- Fraternity/Sorority* – 11
- Student Athlete – 5

Gender

- Female – 147
- Male – 16

* Two are both in the Corps
and are in a fraternity/sorority

Demographics of Respondents

Status

- Students – 75
- Faculty – 8
- Staff – 4
- Unaffiliated – 33
- Unknown – 33

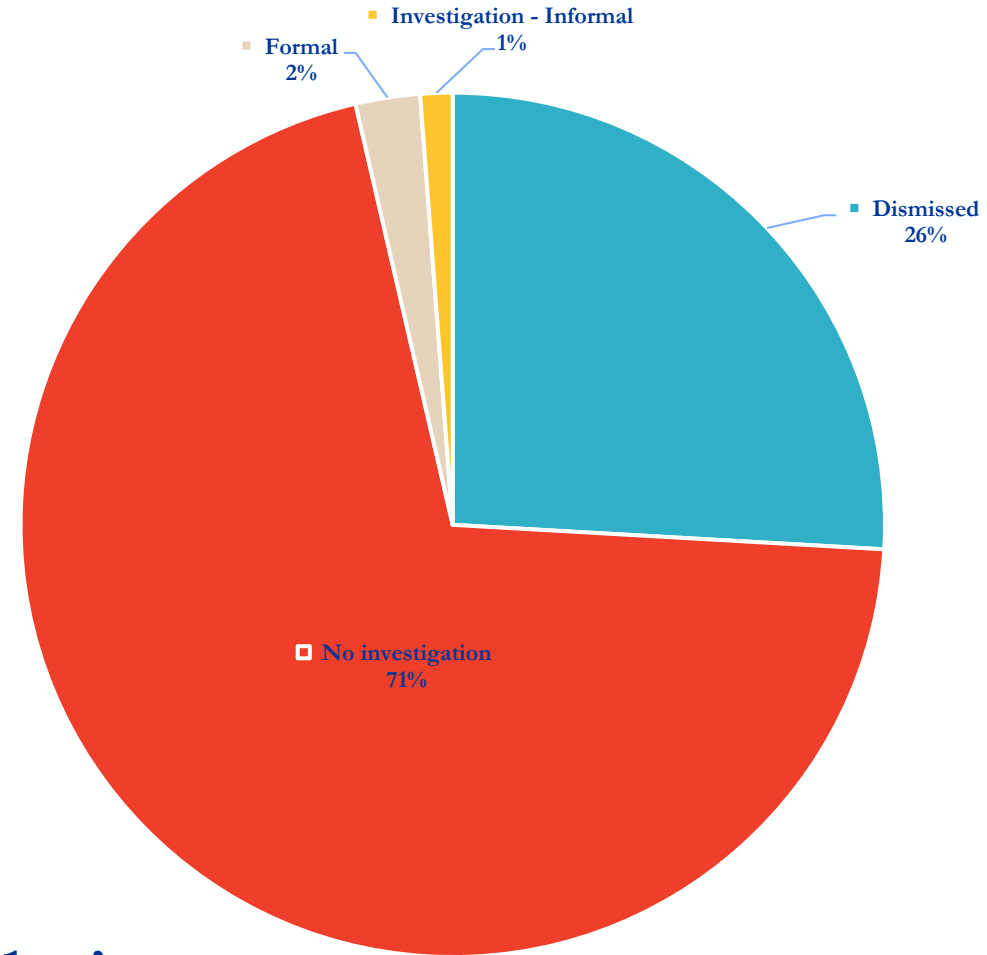
Affiliations

- Corps of Cadets* – 18
- Fraternity/Sorority – 12
- Student Athlete – 2

Gender

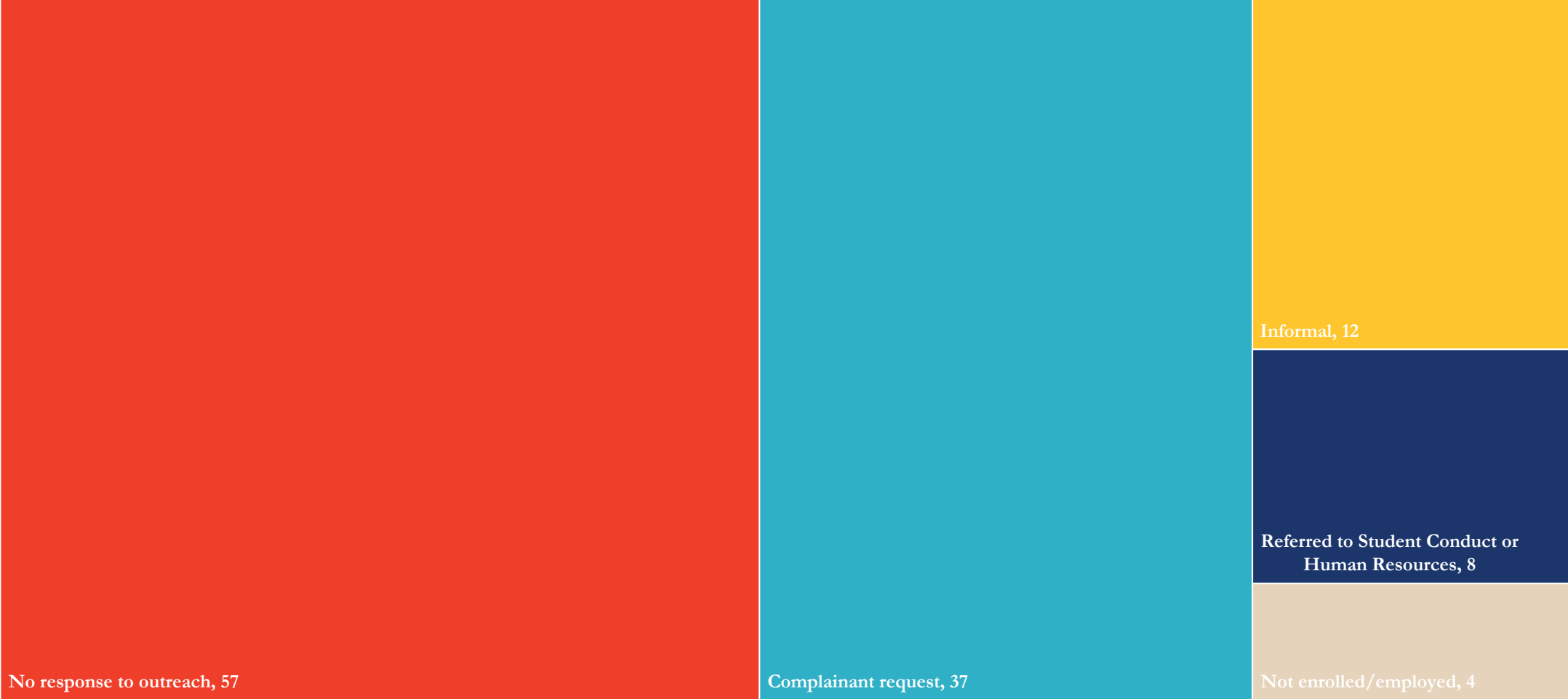
- Female – 12
- Male – 95
- Unknown – 44

* Seven are both in the Corps and are in a fraternity/sorority



Report Resolution

Reasons for No Investigation



Data from 2022 reports

Grievance Process



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Reporting



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Reporting

- Reporting can be done by way of the online Sexual Misconduct Reporting form, any online form, email, phone, in-person, or telling a mandatory reporter.
- Mandatory employees include all administrators, supervisors, faculty members, and other employees who are not confidential or privileged employees. Students such as teaching assistants, graduate assistants, residential assistants, student managers, and orientation leaders are considered mandatory reporters.
- Reports should include as much information as possible (names, dates, description of allegations, evidence, etc.).
- They can be made anonymously. However, this may limit the University's ability to respond to the anonymous report. Mandatory Reporters must disclose all information shared with them and cannot submit anonymous reports.



Outreach

- Immediately after receiving a report, the Title IX Coordinator will reach out to the Complainant (if known); if unknown, the outreach will be made to the reporter.
- The outreach communication which includes resources, rights, and an offer to meet.
- The Respondent will be sent the same information in the Title IX Coordinator's initial communication.



Privacy and Confidentiality

Privacy

- Generally speaking, the information related to a report of misconduct will only be shared with a limited circle of individuals who have a legitimate need to know the information to assist in the response, investigation, and resolution of the complaint.
- While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

Confidentiality

- Confidentiality is not the same as privacy. Confidentiality means that the information shared with a specific employee or outside professional cannot be disclosed to others without the express permission of the individual who shares the information. They are obligated by law to maintain confidentiality, subject to that office's stated terms of confidentiality.



Amnesty and Retaliation

Amnesty

- Information a Student reports during an investigation concerning the consumption of alcohol or other drugs will not be used against the Student in a disciplinary proceeding (i.e., Student Code of Conduct) or voluntarily reported to law enforcement. Amnesty for Employees is at the discretion of Human Resources.
- Amnesty may not apply in situations where alcohol or other drugs were used as a tool to facilitate a violation of this Policy.
- Students and Employees may be given resources on counseling and/or education related to alcohol and other drugs.

Retaliation

- Anyone who has provided information, assisted, participated, or refused to participate in the Sexual Misconduct grievance process shall not be subjected to retaliation.



Initial Action



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Supportive and Interim Measures

Support measures: Support given to either Party regardless of any action being taken on the matter. Types of supportive measures are counseling, health services, student financial aid, extensions of deadlines or other course-related adjustments, modifications of schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Interim measures: Ensure equal access to its education programs and activities and foster a more stable and safe environment during the grievance. These may include housing assignment; issuance of a no-contact order; restrictions or bars to entering specific University property; changes to academic or employment arrangements, schedules, or supervision; or other measures designed to promote the safety and well-being of the Parties and the University's community. Includes Emergency Removal and Administrative Leave.



Options for Complainant

Title IX Coordinator reaches out to the Complainant to provide resources, offer support, and invite them to meet to obtain additional information and discuss options.

While dependent on the circumstances of the report, typically speaking, the Complainant has three options:

1. Take no action. The report and all accompanying material (e.g., statements and evidence) are kept on file.
2. Request an alternative/informal resolution.
3. Request an investigation.

***Note:** The University will respect wishes to pursue or not pursue a complaint where legally possible formally; however, in the interest of the community, the University may choose to investigate where there is a safety concern. If a Complainant (victim/survivor) wishes to remain anonymous or desires to take no further steps, it may hinder the response by the university.*



Review for Dismissal

Title IX Coordination can dismiss a report on the following grounds:

- The alleged conduct, on its face or as clarified, would not constitute a violation of the Sexual Misconduct Policy.
- The Complainant provides written notice that they want to withdraw the complaint or allegation(s).
- The Respondent is no longer enrolled or employed by the University. If the Respondent was enrolled or employed at the time of the conduct, a dismissal will be considered but is not required.
- Circumstances that may prevent the University from gathering relevant evidence sufficient to reach a determination regarding the complaint.

A report that does not meet the Title IX scope (i.e., the location where the conduct occurred) will be dismissed under Title IX and reviewed under the general dismissal reasons.



Right to an Advisor

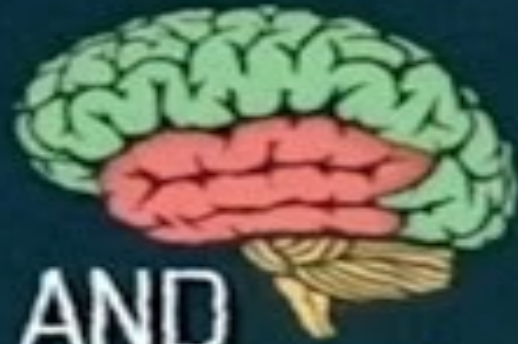
- Both parties have the right to have an advisor through the entire grievance process
- They attend meetings and provide advice and counsel, which may include providing questions, suggestions, and guidance.
- They cannot actively participate in the process (e.g., speak on the party's behalf).
- Communication will be with the party, but the advisor may be copied with the party's permission.
- Their role at a hearing is dependent on whether it is a Title IX case or a Non-Title IX case. In Title IX cases, the advisor conducts the questioning.

Trauma and the Brain



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TRAUMA AND THE BRAIN



Impact of Trauma:

- **Memory Consolidation:** When a person experiences a traumatic event, the brain often prioritizes the consolidation of the emotional aspects of that memory. This means that the emotional intensity of the experience is more likely to be stored in long-term memory, while other details may be less well-preserved.
- **Fragmented Memories:** Traumatic memories can be fragmented or incomplete. Individuals who have experienced trauma may remember specific emotional and sensory aspects of an event but struggle to recall the sequence of events or other contextual details.
- **Flashbacks:** Trauma survivors might experience intrusive flashbacks, where they vividly relive the traumatic event as if it were happening in the present. These flashbacks are often accompanied by intense emotions and sensory experiences, making it difficult for the individual to focus on the sequence or context of the memory.

Impact of Trauma (cont'd)

- **Memory Gaps:** Some individuals may experience memory gaps or amnesia for certain parts of a traumatic event. These memory gaps can be a protective mechanism, as the brain may suppress or block out particularly distressing details to reduce emotional distress.
- **Hyperarousal and Hypervigilance:** People who have experienced trauma might also exhibit heightened states of arousal and hypervigilance. This hyperarousal can make it challenging to concentrate and recall information accurately, as their attention is often focused on potential threats in the environment.
- **Triggers:** Trauma-related memories can be triggered by various stimuli, such as sights, sounds, or smells associated with the traumatic event. These triggers can lead to a flood of emotions and memories, further affecting memory recall.

Alternative/Informal Resolution



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Alternative/Informal Resolution

Alternative Resolution is for Non-Title IX, and Informal Resolution is for Title IX.

- The difference is that informal resolution requires a formal complaint to be submitted, and the Respondent cannot be an employee.

The processes require that:

- The Respondent received a notice of the allegations.
- The Complainant, Respondent, and the University agree to enter into the process.
- All parties agree on the terms of the resolution.

At any point, either party can request an investigation, the Complainant can request no action, or the Respondent can accept responsibility.

The final terms are sent to the parties if and when an agreement is made. The agreement can not be appealed.

Investigation



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Basic Information

Key Elements of an Investigation

- The respondent is presumed not responsible until a determination is made at the conclusion of the grievance process.
- Both parties have the right to present evidence and witnesses.
- The burden of proof rests with the University.
- The burden of proof is a preponderance of evidence – more likely than not.

Investigators:

- We utilize a co-investigator model.
- The parties can challenge investigators for bias or conflict of interest.
- The investigations must be prompt, thorough, and equitable.

During the investigation

The basic steps in the process are:

- Parties are notified that an investigation is occurring. They are asked to provide a list of witnesses and any evidence.
- The investigators conduct interviews, typically in the order of:
 - Complainant
 - Witnesses
 - Respondent
- The investigators collect and review evidence
- Throughout the process, information and evidence are shared with both parties.

After the investigation

- The investigators compile a comprehensive report, summarizing the gathered information, delineating relevant evidence, and offering considerations for the decision-makers.
- The report is distributed, and the parties have ten (10) business days to review it and respond with:
 - Response options
 - Either party can request a hearing
 - Either party can request to engage in the alternative/informal resolution
 - The Complainant can request no action
 - The Respondent can accept responsibility.
 - Provide feedback on the content of the report (e.g., edits, additional information, etc.).

After the investigation (cont'd)

- After responses are received, the investigators can either open the investigation or finalize the report.
- The final report is submitted to the Title IX Coordinator for next steps.
 - Move to the sanction-only process
 - Start the alternative/informal resolution process
 - Close the case
 - Move to Formal hearing

Formal Hearing



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Key Information

- The hearings are live but done via Zoom.
- Typically, there are three (3) hearing panelists. Of which the parties can challenge for bias or conflict of interest.
- Rules of Decorum are in place for the hearing.

During the hearing

- The Chair serves oversees the hearing, deliberation, and determination. They also answer procedural questions. They are not decision-makers.
- The Complainant and Respondent are given equal opportunity to speak.
- Witnesses can be called by either party. The investigator(s) may serve as a witness(es) to address questions related to the investigation process and the report.
- The parties have the right to question the other party and witnesses.
- In Title IX cases, the advisor asks the questions. In Non-Title IX cases, the party asks the questions.
- The University must provide an advisor if a party does not have an advisor for a Title IX hearing.

After the hearing

- The hearing panel will deliberate in private.
- Using the preponderance of evidence standard (more likely than not), they will determine if there was a violation of policy.
- The panel will move to the sanctioning phase if the Respondent is deemed responsible.
 - Imposes sanctions for a student Respondent.
 - Recommends sanctions to Human Resources for an employee Respondent.
- A decision letter, with rationale, is prepared for distribution to the parties.

Appeal Process



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Appeals

Both parties have the right to appeal the determination of responsibility and the imposed or recommended sanctions.

Grounds for appeal

- A procedural irregularity.
- New relevant evidence.
- An individual involved in the grievance process had a conflict of interest or bias for or against the Complainant or Respondent.
- The finding of responsible or not responsible and/or the imposed or recommended sanction(s) was inconsistent with the weight of the information.

There is only one level of appeal at the University for determination of responsibility and imposed sanctions.

Appeals for Employee Sanctions

The hearing panel offers recommendations for sanctions concerning employees rather than directly imposing them.

These recommendations are subsequently forwarded to the Human Resources department. Human Resources collaborates with the relevant departments and individuals to make final decisions on the sanctions to be enforced.

Once the determinations are reached, both parties are promptly informed and provided with the opportunity to initiate an appeal.

Please note that in cases involving Sexual Misconduct, the faculty and staff grievance processes do not apply. Therefore, the University's final decision on the matter is determined by the outcome of the hearing or the appeal process regarding the imposed sanctions.

Case is Closed



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Closing Cases

Closure letters are sent when

- The Complainant does not want any action.
- The case is dismissed.
- An agreement was reached through the alternative/informal process.
- A final determination has been made on the case through the hearing or appeal process.

All documents or items related to the report are kept on file for seven (7) years.

Questions or Comments?



UNG Sexual Misconduct Advisor Training



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Assistant Dean of Students, Student Conduct & Integrity

Right to an Advisor

All parties have the right to have an advisor throughout the process. An advisor may be an advocate, parent, friend, staff or faculty member, legal counsel, or other person of their choosing.

Students – Complete the “Authorization to Disclose Information” form allowing the University to release information related to the case but protected by FERPA.

Employees – Provide the advisor’s name and contact information and give permission for the University to share information about the case with them.

Support person: In addition to, or in lieu of, a party may have a support person during the process that serves to provide emotional support.

Provide Support

Share resources – The primary resource is Student Counseling. Also, off-campus resources are on the Title IX website.

Supportive measures – Encourage them to contact the Title IX Coordinator if they would like to explore supportive measures such as counseling, health services, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Meet their needs – Ask them what they need from you and check in during the process to see if their needs have changed.

Expectations for Advisors

- The role is limited and includes general advice, logistical advice, or legal advice.
- They do not have an active role in the process and may not speak on behalf of the involved party. It is up to the parties to present information during the process.
- Confer quietly with their advisee, exchange notes, suggest questions, and request to speak with their advisee in private.
- Keep the information shared during the process confidential.
- If disruptive or not following these expectations, they may be asked to leave a meeting or alter their interaction with the university.
- Be actively engaged and attentive.
- Do not contact, directly or indirectly, the other party.

Grievance Process Prior to Hearing

1. A report was submitted outlining the allegation(s)
2. A Formal Complaint was filed by the Complainant or signed by the Title IX Coordinator alleging sexual misconduct against a Respondent and requesting that the University open an investigation. The Respondent received a notice of allegations
3. An Alternative/Informal resolution was not attempted, or it failed
4. The Title IX Coordinator assigned the case to investigators, and the parties were notified of the investigation.
5. The investigation was conducted (interviewing parties and witnesses and collecting evidence).
6. The initial investigation report was distributed for response and review.
7. The Parties either did not want to attempt an alternative/informal resolution, or it failed.
8. A hearing is conducted to determine responsibility and provide sanctions if found responsible.

Preparing Them for the Investigation

Remind them to:

- Check their University email, as that is the official means of communication.
- Submit witness list and evidence.
- Review all documents sent to them.

Guide them when they submit witness list and evidence:

- **Witnesses** – Provide their name, contact information, and relevance to the investigation. Contact the witnesses and let them know they are going to be contacted by the investigator(s).
- **Evidence** – These can be screenshots, text, emails, videos, and so forth. Encourage them to label everything – dates, times, description, and how it is relevant.

Preparing Them for the Interview

- Review the grievance procedures and prepping for an investigation document
- Meet beforehand and address any concerns they have about the interview.
- Have them write down anything from the incident and bring it to the interview. Capturing this early will help as recalling details and facts can be difficult with the passing of time.
- Encourage them to send any materials to the investigator(s) prior to the interview.
- Tell them they can take a break or stop the interview at any time.
- Contact the investigator(s) or the Title IX Coordinator for questions.

Note for You

Scheduling:

- The investigators will contact the party to schedule a meeting. The parties are responsible for working with their advisor during the scheduling process.
- Be as flexible as possible, as coordinating schedules can be difficult.
- The University will reasonably accommodate an advisor's schedule but will not unnecessarily delay the process due to an advisor's conflict.

During the interview

Advisors may not participate directly in any meeting involving the case.

You can talk to the party – provide them with advice and counsel through quiet conversation or written notes

If they forget to share something, ask them if they want to share it.

Be ready to help them ask questions (e.g., next steps). Typically you can also ask the investigators process questions.

Observe the party. They may need to take a break or otherwise need active emotional support.

Do not engage in conduct that is disruptive.

Preparing them for the hearing

Review the hearing section of the Grievance Procedures.

Ask them to share the hearing packet with you (it will be sent no less than ten (10) days before the hearing). It includes the investigation report with all the information gathered, such as statements and evidence.

Encourage them to:

- Write out their opening statement.
- Consider what questions to ask the other party, the investigator(s), or witnesses.

Review what they have prepared for the hearing.

Note: Hearings are done via Zoom. Be sure to know how to use Zoom and have it installed, updated, and tested before the hearing.

Questioning at the Hearing

The Parties shall have the right to ask relevant and follow-up questions, including those that challenge credibility.

- Non-Title IX: Questions for consideration will be submitted to the Chair in writing (before or during the hearing). The Party's Advisor may actively assist in drafting questions. The Chair shall ask the questions as written if they are relevant.
- Title IX-Only: Questions are asked by the Party's Advisor directly to the witnesses, including the other Party. Should a Party not have an Advisor, the University will provide one for the purpose of asking the questions during a hearing. Before a Complainant, Respondent, or witness answers a question, the Chair must determine whether a question is relevant and explain any decision to exclude a question as irrelevant before a Party or witness answers.

After the Hearing

- Help them debrief and process what occurred. The experience will be stressful and anxiety-filled.
- Just listen and show support.
- If there are questions about the process, have them reach out to the Title IX Coordinator or do so yourself.
- Invite them to share the final decision with you; you may need to provide support or help them with an appeal.
- Follow up to check-in on them.

Take Care of You

Sexual misconduct is a heavy topic. As the party shares their experience with you, it can be emotionally draining. Seek out someone who can help you process while maintaining the privacy of the parties.

Self-care is important to be able to be present and serve as a good advisor to the party.

Know that the Title IX Coordinator is a resource to you through the process.

Questions or Comments?





Please give us your feedback on
the presentation.



I will email you the presentation for your records.



Resources

[UNG Title IX Website](#)

[Sexual Misconduct Policy](#)

[Sexual Misconduct Grievance Procedures](#)

[Sexual Misconduct Emergency Removal Procedures](#)