

**3354: 1-60-02 Discrimination, Harassment, Sexual Misconduct, Title IX and Retaliation Complaint Procedure**

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**3354 Cuyahoga Community College Grievance Process for Resolving Allegations of Discrimination, Harassment, Sexual Misconduct, Title IX and Retaliation**

**(A) Introduction**

(1) For purposes of the College’s procedure, the subject of the Prohibited Conduct is referred to as the Complainant, and the alleged perpetrator of the Prohibited Conduct is referred to as the Respondent. The Complainant may or may not be the reporter of the Prohibited Conduct. Both the Complainant and the Respondent are referred to as the parties for purposes of this Procedure. In certain circumstances, the College may serve as the Complainant in a formal complaint.

(2) If Prohibited Conduct under policy 3354: 1-60-01 Cuyahoga Community College Grievance Process for Resolving Allegations of Discrimination, Harassment, Sexual Misconduct, Title IX and Retaliation is reported to the College through a non-confidential resource, the Director of

Institutional Equity/Title IX Coordinator or designee will attempt to contact the reporter to review the Policy and discuss the privacy of the process, amnesty (if appropriate), accommodations, supportive measures, options for Informal Resolution if appropriate, and the investigation and adjudication process for informal reports and formal complaints.

- (3) There is a presumption that a Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

#### **(B) Jurisdiction**

- (1) This policy applies to all students, employees, volunteers, vendors and visitors to the College.
- (2) This policy applies to Prohibited Conduct that is reported to have occurred:
  - (a) In connection with the College's program or activity; or
  - (b) On property owned or controlled by the College; or
  - (c) Using computer or internet networks, digital platforms, or computer hardware or software owned or operated by the College; or
  - (d) Where the conduct is reported to have a continuing adverse effect on an educational program or activity of the College, regardless of where the conduct is reported to have occurred.
- (3) The College's response to Prohibited Conduct depends in part on its control over the Respondent.
  - (a) The policy applies when the Respondent is a member of the College community, or was a member of the College community at the time of the alleged incident and intends to participate in an education program or activity of the College.
  - (b) If Prohibited Conduct is reported when the College does not have control over the Respondent, the College will still work with the Complainant regarding their options and appropriate supportive measures.
  - (c) The College will also consider whether it is appropriate to take any other actions to protect the safety of the College community under these circumstances.
- (4) The elements established in this policy have no effect and are not transferrable to any other policy or procedure of the College except as defined in this policy. This policy does not set a precedent for other policies, procedures, or processes of the College and may not be cited for or against any right or aspect of any other policy, procedure, or process.

#### **(C) Definitions**

- (1) **Advisor** – Parties may have an Advisor of their choice present with them for all meetings and interviews within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.
  - (a) May be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process.
  - (b) May choose an Advisor from inside or outside of the College community.

- (c) Choosing an Advisor who is also a witness in the process may create potential for challenging the credibility of the witness/Advisor due to the witness/Advisor's presence during party interviews and cross examination. A party who chooses an Advisor who is also a witness can anticipate credibility challenges may be explored by Decision Maker.
- (2) **Confidentiality** – means that means that information will not be shared by the individual who receives the information except in limited circumstances, such as where there is an imminent threat of harm to the individual or to others, or where there is knowledge or suspicion of child abuse or neglect.
- (a) **Confidential Reporting (Employees)** – Complainants and third-party reporters who are employees wishing to report confidentially may contact the College's Employee Assistance Program (Impact Solutions).
  - (b) **Confidential Reporting (Students)** - Complainants and third-party reporters who are students wishing to report confidentially may speak with Counselors in the Counseling Centers on Campus.
  - (c) **Off-Campus Confidential Reporting** - Licensed professional counselors and other medical providers, local rape crisis centers, local domestic violence centers, local or state agencies, clergy/chaplains, and attorneys.
    - (i) A list of campus and community resources, many of which provide confidentiality, is available at <https://www.tri-c.edu/titleix/better-than-that/additional-resources.html>.
  - (d) The College is required by the Clery Act to keep certain publicly available records regarding crimes that are reported on or near campus property. Such records do not include personal information regarding victims of such crimes, to the extent permissible by law.
- (3) **Consent (Related Definition for Sex & Gender Discrimination/Title IX)** - Mutual knowing, voluntary, and clear permission by word or action to engage in sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity. If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the College to determine whether its policy has been violated.
- (4) **Emergency Removal** - The College may remove a Respondent from the College's education program or activity on an emergency basis, provided:
- (a) An individualized safety and risk analysis are conducted by the College;
  - (b) There is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of discrimination, harassment, sexual misconduct, retaliation and Title IX justify removal;
  - (c) Provides the Respondent with notice of an opportunity to challenge the decision immediately following the removal.
    - (i) **Students**
      - i. Emergency Removal here has the same meaning as Interim Suspension found in (E)(11) – Suspension in the Student Code of Conduct.

- ii. Appeals/Challenges made to the decision will follow (H) Appeals in the Student Code of Conduct.

(ii) **Employees**

- i. **The Department of Human Resources shall evaluate the complaint and determine if it is appropriate to place the employee on administrative leave during the pendency of the investigation.**
- ii. **Appeals will follow the union contract for non-exempt employees and the Employee Code of Conduct for exempt employees.**

- (d) This does not preclude the College from placing an employee on administrative leave pending the outcome of the Formal Grievance process.

(5) **Incapacitation (Related Definition for Sex & Gender Discrimination/Title IX)** - Engaging in sexual activity with someone known to be, or should have known to be incapacitated. Occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g. to understand the “who, what, when, where, why, or how” of their sexual interaction).

- (a) Determined through consideration of all relevant indicators of an individual’s state and is typically assessed through consideration of behavior cues.
- (b) Not the same as intoxication, impairment, blackout, and/or being drunk. A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including by alcohol or other drugs.
- (c) A person violates this policy if they engage in sexual activity with someone they know to be, or should know to be, physically or mentally incapacitated.
- (d) The policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the voluntary or involuntary consumption of incapacitating alcohol and/or drugs.

(6) **Mandatory Reporters** – The College deems all faculty, staff, and agents of the College (i.e., contracted third parties) are mandatory reporters, unless the College has designated them to have confidential status (i.e., counselors). Mandatory reporters must contact the OIE within 24 hours of becoming aware of a report or incident they believe may have violated a policy on Discrimination, Harassment, Sexual Misconduct, Retaliation, and/or Title IX. Other members of the College community (i.e. students, volunteers, guests, or visitors may contact the OIE if they believe the policy on Discrimination, Harassment, Sexual Misconduct, Retaliation and Title IX may have been violated.

- (a) If the conduct is criminal in nature, any member of the community, including guests and visitors, shall contact Campus Police and/or local police to make a report.
- (b) It is also possible for employees to notify a supervisor, or for students to notify a Deputy Institutional Equity Coordinator or faculty member.
- (c) These individuals will notify the OIE. Employees must promptly share all details of the reports they receive. The College website also includes a Reporting form at <https://www.tri-c.edu/student-resources/student-complaints-and-concerns/index.html>.
- (d) Failure of a non-confidential employee, to report an incident of discrimination, harassment, sexual misconduct, retaliation and Title IX of which they become aware is a violation of the Policy and can be subject to disciplinary action for failure to comply.
- (e) Nothing in this section or procedure shall create any liability which is not imposed by state or federal law

(7) **Minors**

- (a) This procedure applies to all students at College, including minors and those participating in College Credit Plus and other similar programs.
  - (b) College will follow all laws, including mandatory reporting requirements found in the Ohio Revised Code, regarding minors who are Complainant's and Respondent's in matters of sexual misconduct.
  - (c) Under the Family Education Rights and Privacy Act (FERPA) minors have privacy rights; therefore, information is not disclosed to parents or guardians unless the minor student has signed a release of information or the information falls under an exception to FERPA.
  - (d) In the case of minor students involved in College Credit Plus and other similar programs, the College will work with secondary school officials as appropriate to address the incidents of sexual misconduct.
- (8) **Preponderance of the Evidence** – Evidentiary standard used by the College to determine whether the Respondent more likely than not violated the policy.
- (9) **Privacy** - means that information will be protected except to the extent it is necessary to disclose information in order to respond to a report, effectuate supportive measures, facilitate an informal resolution, administer a formal complaint under these procedures, provide remedies to those who experience Prohibited Conduct, and ensure the safety of individuals and the College community. The Director OIE/Title IX Coordinator and other College employees are expected to respect the privacy of the parties and witnesses to a report or formal complaint and share information only on a “need to know” basis.
- (10) **Supportive Measures** - Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent. May be offered before or after the filing of a formal complaint or where no formal complaint has been filed. Designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment. May be offered before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive Measures may include, but are not limited to:
- (a) Counseling
  - (b) Extensions of deadlines or other course-related adjustments
  - (c) Modifications of work or class schedules
  - (d) Campus Police Escort services
  - (e) Mutual restrictions on contact between parties
  - (f) Changes in work locations
  - (g) Leaves of absence
  - (h) Increased security and monitoring of certain areas of the Campus
  - (i) Other measures as deemed appropriate by the OIE
  - (j) The College will implement the least restrictive supportive measures as possible in light of the circumstances, in addition to providing any Supportive Measures, defined above. Measures may include restrictions from classes and/or all other College

activities or privileges for which the student might otherwise be eligible. Such measures may include but are not limited to:

- (i) Temporarily reassigning an employee;
- (ii) Restricting a student or employee's access to use of College facilities or equipment;
- (iii) Allowing a student to withdraw or take incompletes without financial penalty;
- (iv) Authorizing an administrative leave;
- (v) Suspending a student's participation in extracurricular activities, student organizational leadership or intercollegiate athletics;
- (vi) At the discretion of the Office of Institutional Equity, alternative coursework options may be pursued to ensure as minimal as possible an academic impact as possible on the reporting and Responding parties;
- (vii) The Office of Institutional Equity has sole discretion to implement or stay in an interim action/emergency removal and to determine conditions and duration.
- (viii) Violation of an interim action under the policy will be grounds for discipline which may include expulsion or termination.
- (ix) During an interim action/suspension, a student or employee may be denied access to on or off campus College sponsored events

(11) **Threat Assessment** - is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

- (a) The OIE in conjunction with the Department of Human Resources (Employee); or the Office of Student Affairs (Student), shall engage in an initial determination evaluating the threat of harm posed by a student or employee where it is alleged or reasonably believed the individual poses a threat or harm to persons or property.
- (b) Factors when assessing possible threats to the safety of the College community are:
  - (i) A violence risk assessment indicates a compelling threat to health and/or safety;
  - (ii) Preferences and concerns of the Complainant;
  - (iii) Nature of the circumstances of the allegations in the report;
  - (iv) Severity and impact of the reported conduct;
  - (v) Whether there are multiple Complainants or Respondents;
  - (vi) Whether the Respondent has threatened further Prohibited Conduct or violence against the Complainant or other;
  - (vii) Whether the Respondent is an employee (Title IX only);

- (viii) Whether the College possesses independent means to obtain relevant evidence if the Complainant is not willing or able to participate.

**(12) Violence Risk Assessment (VRA)**

- (a) A VRA can aid in ten critical and/or required determinations, including:
  - (i) Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
  - (ii) Whether the Director OIE/Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
  - (iii) Whether to put the investigation on the footing of incident and/or pattern and/or climate;
  - (iv) To help identify potential predatory conduct;
  - (v) To help assess/identify grooming behaviors;
  - (vi) Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
  - (vii) Whether to permit a voluntary withdrawal by the Respondent;
  - (viii) Whether to impose transcript notation or communicate with a transfer College about a Respondent;
  - (ix) Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
  - (x) Whether a Clery Act Timely Warning and/or Persona-non-grata is needed.
- (b) VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other BIT team members.
- (c) A VRA authorized by the Director OIE/Title IX Coordinator should occur in collaboration with the BIT Team.
  - (i) Where a VRA is required by Director OIE/Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.
- (d) A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

**(D) Prohibited Conduct**

- (1) **Civil Rights Violations** – Conduct prohibited as forms of discrimination when the act is based upon the Complainant’s actual or perceived membership in a protected class:
  - (a) Threatening or causing physical harm;
  - (b) Extreme verbal abuse;



- (c) Other conduct which threatens or endangers the health or safety of any person;
  - (d) Discrimination, defined as actions that deprive, limit or deny other members of the community of educational or employment access, benefits or opportunities;
  - (e) Intimidation, defined as implied threats or acts that cause a reasonable fear of harm in another;
  - (f) Bullying (repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally);
  - (g) Intimate partner violence (commonly referred to as dating, domestic or relationship violence) is verbal, physical or emotional violence, threat of violence, or abuse between those who are involved in, or have been involved in, an intimate interaction or relationship.
- (2) **Consensual Sexual Relationships Involving Faculty and Students** – The College prohibits consensual sexual relationships between faculty or staff members and the students or student employees enrolled in a class or class sequence(s) taught, advised, counseled, coached or supervised by the faculty member, or over whom the faculty member has direct impact on the student or student employee’s academic enrollment or success. Consensual sexual relationships in instances where a student is the lawful spouse of the faculty member, and was so prior to enrolling in the course taught by the faculty member, are permitted. If an employee or faculty member is found to be engaged in a consensual sexual relationship with a student that violates this policy, disciplinary action may be expedited.
- (a) The College prohibits consensual sexual relationships between administrators, supervisors, deans, chairpersons or employees and the student or student employees who they advise, counsel, and coach or supervise, or over whom they have a direct impact on the student or student employee’s academic enrollment or success. The College discourages all employees or faculty members from engaging in consensual sexual relationships with active status students.
  - (b) An employee or faculty member who is engaged in a consensual sexual relationship with another employee or faculty member in violation of this policy has the responsibility to notify his/her administrator, dean or chairperson, the Human Resources Office, or Employee and Labor Relations about the relationship. If possible, the employment of the parties involved in the consensual sexual relationship in which one person has authority over or influence upon the status of the other will be modified so that the authority or influence no longer exists. This shall occur by moving one of the persons to another position, department or supervisor. An employee or faculty member who does not notify his/her administrator, supervisor, dean or chairperson that he/she is involved in a consensual sexual relationship in violation of this policy shall be subject to disciplinary action, up to and including termination of employment.
- (3) **Discrimination** – Occurs when an adverse employment or academic action is taken and the action is based on ones protected class status. The College prohibits discrimination against students, employees and others based on their protected class status.
- (a) The College recognizes the following as protected class: race, color, religion, sex (including sexual harassment, sexual violence, sexual assault, sexual exploitation, relationship violence, domestic abuse, stalking), pregnancy, national origin, ancestry, physical or mental disability, age, marital status, veteran status, genetic information, participation in protected activity (retaliation), and/or any other statutes protected by state and federal law including Title II, Title VI, Title VII, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, rules and regulations.
- (4) **Discriminatory Harassment** – Unwelcome, verbal or physical conduct that is based on an individual’s protected class when one or more of the following conditions is present:
- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, participation

in a program or activity, or grade in a course or coursework;

- (b) Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting an individual; or
- (c) Such conduct is sufficiently severe or pervasive such that it unreasonably interferes with, denies or limits an individual's ability to participate in or benefit from the College's education and employment programs and activities; and/or
- (d) Creating an intimidating, hostile or offensive educational or employment environment further defined below.
- (e) Determination of whether an environment is "hostile" is based on the totality of the circumstances:

- (i) These circumstances may include the degree to which the conduct interfered with the Complainant's educational or work performance;

- (ii) The type, frequency, and duration of the conduct;

- (iii) The identity of and relationship between the Complainant and Respondent;

- (iv) The number of individuals involved;

- (v) The age and sex of the Complainant and Respondent;

- (vi) The location of the incident(s) and the context in which it occurred;

- (vii) The nature and severity of the conduct;

- (viii) Whether the conduct was humiliating;

- (ix) The effect of the conduct on the Complainant's mental or physical state;

- (x) Whether the conduct arose in the context of other discriminatory conduct;

- (xi) Whether the speech or conduct deserves protections of academic freedom or the first amendment

- (f) A single incident may create a hostile environment if the incident is sufficiently severe.

- (5) **Hostile Educational Environment** – includes any situation in which there is harassing conduct that limits, interferes with, or denies educational benefits or opportunities, from both a subjective (the Complainant) and objective (reasonable person's) viewpoint, that is sufficiently severe, pervasive and objectively offensive.
- (6) **Hostile Employment Environment** - Employment situation in which there is harassing conduct that is sufficiently severe, or pervasive such that it unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment.
- (7) **Non-Consensual Sexual Intercourse** – Any sexual intercourse, however slight, with any object by another person upon another person that is without the consent and/or by force.

- (a) Sexual intercourse includes vaginal or anal penetration by a penis, tongue, finger, or object, or oral copulation (mouth to genital contact), no matter how slight the penetration or contact.
- (8) **Non-Consensual Sexual Contact** - Any intentional sexual touching, however slight with any object by a person upon another person that is without consent and/or by force.
- (a) Sexual touching includes:
    - (i) Intentional contact with the breasts, groin, genitals, or mouth by touching another with any of these body parts, or;
    - (ii) Making another touch you or themselves with or on any of these body parts, or;
    - (iii) Any other intentional bodily contact in a sexual manner.
- (9) **Quid Pro Quo Harassment**- Exists when there are unwelcome requests or demands based on a protected class and;
- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status or;
  - (b) Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions adversely affecting such individual
- (10) **Retaliation** - Any materially adverse action taken because of a person's participation in a protected activity, or action taken to impede an individual's participation in the process.
- (a) Protected activity includes:
    - (i) reporting an incident that may implicate this policy,
    - (ii) participating in the resolution process,
    - (iii) supporting a reporting or Respondent, or;
    - (iv) assisting in providing information relevant to an investigation
  - (b) Acts alleged to be retaliation should be reported immediately to the Director OIE/Title IX Coordinator and will be promptly investigated. College is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.
  - (c) The exercise of rights protected under the First Amendment does not constitute retaliation.
  - (d) Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under the policy and procedure does not constitute Retaliation. A determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.
- (11) **Sexual Exploitation** - Occurs when an individual takes non-consensual, or abusive sexual advantage of another, for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited and that behavior does not otherwise constitute non-consensual sexual contact, non-consensual sexual intercourse or sexual harassment.

- (a) Examples of sexual exploitation includes, but is not limited to:
  - (i) Sexual voyeurism (such as watching a person undressing, using the bathroom or engaging in sexual acts without the consent of the person being observed);
  - (ii) Invasion of sexual privacy, taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when there is reasonable expectation of privacy during the activity without the consent of all involved in the activity, or;
  - (iii) Exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including making or posting of revenge pornography, prostitution or prostituting another, engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the infection, administering alcohol or drugs (such as "date rape" drugs) to another person without their knowledge or consent (assuming the act is not completed), exposing one's genitals in non-consensual circumstances, including unwelcome sexting.

(12) **Sexual Harassment (Title IX)** – means conduct on the basis of sex that satisfies one or more of the following:

- (a) An employee of the College conditioning the provision of aid, benefit, or service of the College on an individual participation in unwelcome conduct;
- (b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity; or

(c) **Sexual Assault (Title IX) as defined as:**

- (i) A forcible or non-forcible sex offense as defined by the Uniform Crime Reporting system used by the Federal Bureau of Investigation pursuant to 20 U.S.C. 1092(f)(6)(A)(v), including rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape. These definitions prohibit the following behaviors:
  - i. Vaginal, anal, or oral sexual intercourse with a person without their consent;
  - ii. Touching the private body parts of another person for the purpose of sexual gratification without their consent.

(d) **Sex Offenses (Title IX), Nonforcible** – Nonforcible sexual intercourse, defined as:

- (i) **Incest (Title IX)** - Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Ohio law. In Ohio, Revised Code Section 3101.01(A) provides that individuals nearer of kin than second cousins may not marry.
- (ii) **Statutory Rape (Title IX)** – Nonforcible sexual intercourse with a person who is under the statutory age of consent. In Ohio Revised Code Section 2907.02(A)(1)(b) provides that no person may have sex with a child under the age of thirteen. Ohio Revised Code Section 2907.04(A) provides that no person over the age of eighteen may have sex with a child under the age of sixteen.

(e) **Dating Violence (Title IX) defined as:**

- (i) Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition:
  - i. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - ii. Dating violence does not include acts covered under the definition of domestic violence.

**(f) Domestic Violence (Title IX) as defined as:**

- (i) A felony or misdemeanor crime of violence committed on the basis of sex:
  - i. By a current or former spouse or intimate partner of the Complainant;
  - ii. By a person with whom the Complainant shares a child in common;
  - iii. By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
  - iv. By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws in Ohio;
  - v. By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Ohio;
  - vi. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

**(g) Stalking (Title IX) as defined as:**

- (i) Engaging in a course of conduct directed at a specific person, on the basis of sex, that would cause a reasonable person to:
  - i. Fear for the person's safety or the safety of others; or
  - ii. Suffer substantial emotional distress
- (ii) For the purposes of this definition:
  - i. 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 a person's property.
  - ii. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
  - iii. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

(13) **Sexual Harassment** - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- (a) Submission to or rejection of this conduct explicitly or implicitly affects an individual's employment or educational environment;
- (b) Unreasonably interferes with an individual's work performance or;
- (c) Creates an intimidating, hostile or offensive work or educational environment.

(14) **Sexual Misconduct** - State law defines various violent and/or non-consensual sexual acts as crimes. While some of the definitions below may have parallels in criminal law, the College has defined categories of sex/gender discrimination as forms of sexual misconduct for which disciplinary action under the policy may be imposed.

- (a) The College considers non-consensual sexual intercourse policy violations to be the most serious of these offenses, and therefore imposes the most severe sanctions, including suspension or expulsion for students and termination for employees.
- (b) The College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any act of sexual misconduct or other sex/gender-based offenses, including:
  - (i) Intimate partner (dating and/or domestic) violence
  - (ii) Non-consensual sexual contact, and/or
  - (iii) Stalking
  - (iv) Based on the facts and circumstances of the particular allegation.
  - (v) Acts of sexual misconduct can occur if committed by any person upon any person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

(15) **Stalking** - Repetitive and menacing (causing a reasonable person to be fearful) pursuit, following, harassing, and/or interfering with the peace and/or safety of another that is not on the basis of sex or gender.

#### **(E) Reporting Prohibited Conduct**

- (1) **Options for Reporting** - When an individual experiences Prohibited Conduct, they have a number of options that are available to them. These options, which can be explained in more detail by the Director OIE/Title IX Coordinator, include:
  - (a) Anyone who feels they are in immediate danger are strongly encouraged to call 911. Those in immediate danger on campus may contact the Department of Campus Police & Security Services: Cuyahoga Community College Campus Police at 216-297-4911.
  - (b) If the Prohibited Conduct constitutes a crime, the option to notify College law enforcement and/or local law enforcement, which the notification the College can help facilitate;
  - (c) The option to seek a protection order and/or other legal orders, which will be enforced by the College as may be required by the order;
  - (d) The option to seek medical attention, counseling services, or other confidential resources;

- (e) The option to file a report with the Director of Institutional Equity/Title IX Coordinator and request appropriate supportive measures;
- (f) The option to report Prohibited Conduct to another employee of the College, who is required to file the information with the Director of Institutional Equity/Title IX Coordinator except where the disclosure is made in the context of a confidential relationship (e.g., counselor-patient, doctor-patient);
- (g) The option to file a formal complaint with the Director of Institutional Equity/Title IX Coordinator to pursue informal resolution or a formal investigation;
- (h) A Complainant may choose multiple options, and the options they choose may change over time. For example, a complainant may choose initially to proceed with a criminal investigation, or this process, both, or neither. Regardless of those choices, the complainant may seek a protection order, confidential resources, supportive measures, and/or or file a Formal Complaint.

## **(2) Making a Report to Law Enforcement**

- (a) Where an individual has been subjected to violence or other criminal acts, the College encourages such individuals to seek assistance from medical providers and/or law enforcement immediately after the incident, whether or not the complainant intends to pursue criminal charges. This is to assist in the preservation of evidence and to begin a timely response by law enforcement. Preserving evidence may later assist in proving that an alleged criminal offense occurred, or it may be helpful in obtaining a protection order if one is desired.
- (b) The Director OIE/Title IX Coordinator can assist in notifying law enforcement authorities if the complainant chooses. Complainants may also decline to notify such authorities.

## **(3) Making a Report to the College**

- (a) The College strongly encourages individuals who have experienced or witnessed Prohibited Conduct to file a report with the Director OIE/Title IX Coordinator. Making a report does not require further action on the part of the reporter.
- (b) When complaints involve students the Assistant Dean of Student Affairs at the East, Metro, West and Westshore Campus will serve as Deputy Institutional Equity/Title IX Coordinators (Deputy Coordinators). In addition, when a complaint involves an employee, the Employee and Labor Relations Manager in the Office of Human Resources will serve as Deputy Institutional Equity/Title IX Coordinator (Deputy Coordinator).
- (c) Employees of the College who become aware of behavior that may constitute Prohibited Conduct are required as Mandatory Reporters to report all information regarding such Prohibited Conduct to the Director OIE/Title IX Coordinator as soon as reasonably possible.
- (d) Any person may report Prohibited Conduct in person, by mail, by telephone, or by email, using the contact information listed for the Director OIE/Title IX Coordinator, or by any other means that results in the Director OIE/Title IX Coordinator receiving the person's verbal or written report. Such reports may be made at any time, including during non-business hours. Contact information for the Director OIE/Title IX Coordinator is found in (D)(3)(a) above and at: <https://www.tri-c.edu/titleix/index.html>.
- (e) Individuals may report to the Director Institutional Equity/Title IX Coordinator or Deputy Coordinators by mail, by telephone, or by electronic mail.
- (f) Anonymous reports may be made, but depending on the level of information included in the report, anonymous reporting may limit the College's ability to respond. Employees who are required to make reports under these procedures are not permitted to make

such reports anonymously. If the anonymous report includes a crime, it will be counted in the College's crime statistics.

- (g) Any student, employee, or third party who reports that they have experienced sexual assault, domestic violence, dating violence, or stalking on the basis of sex shall be provided with a written explanation of their rights, options, and available services. These rights and options include the opportunity to access specific support services on campus and in the community, such as assistance with changing academic and working arrangements upon request. Appropriate College officials will determine if the request is reasonable. Such rights also apply to the Respondent.
- (h) Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action. Witnesses and parties providing knowingly false evidence or deliberately misleading an official conducting an investigation will be subject to discipline under the Policy.
- (i) Where it is alleged that the Director OIE/Title IX Coordinator has engaged in Prohibited Conduct, such report may be directed to the Human Resources Director, who will designate an appropriate individual to act as the Director OIE/Title IX Coordinator for purposes of that report.

## **(F) Grievance Process (Initial Assessment/Investigation and Decision-Making Process)**

### **(1) Overall Timeframe**

- (a) The College will make a good faith effort to complete the resolution process within a sixty (60) to ninety (90) business day time period, including the appellant process.
- (b) Time period may be extended as necessary for appropriate cause by the Director OIE/Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.
- (c) The College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions. During such a delay, the College will implement supportive measures as deemed appropriate.
- (d) College action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

### **(2) Filing a Formal Complaint**

#### **(a) Formal Complaint**

- (i) A statement or summary received by the Director of OIE/Title IX Coordinator from the Complainant or a Complaint signed by the Director OIE/Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that the College investigate the allegation.
- (ii) Complaints may be filed in person, by mail, by electronic mail, or through the College's online system for making such reports.
- (iii) If a Complainant is not 18 years of age and is not enrolled in the College, the College must obtain the voluntary, written consent of a natural parent, guardian, or an individual acting as a parent in the absence of a parent or guardian before



proceeding with an investigation.

- (iv) If a Formal Complaint is received, the Director OIE/Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed and the Initial Assessment begins.
- (v) The Director OIE/Title IX Coordinator may consolidate Formal Complaints alleging Prohibited Conduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, where the allegations of Prohibited Conduct arise out of the same facts or circumstances.
- (vi) The Director OIE/Title IX Coordinator may, in their sole discretion, dismiss a Complaint or any of the allegations therein if at any time during the investigation or decision-making process:
  - i. A Complainant notifies the Director OIE/Title IX Coordinator in writing that the Complainant would like to withdraw the Complaint or any allegations therein;
  - ii. The Respondent is no longer enrolled in or employed by the College; or
  - iii. Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Complaint or allegations therein;
  - iv. If a Complaint is dismissed, the College will promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties. Where a Complaint is dismissed, the College may take action under another provision of its policies and/or codes of conduct.
- (vii) If the Complainant expresses in writing a desire not to proceed with the Initial Investigation and a Supportive Measure is preferred and appropriate the Director OIE/Title IX Coordinator shall work with the Complainant to identify their wishes and then seeks to facilitate implementation. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
- (viii) If an Informal Resolution option is preferred, and the Respondent has been placed on notice of the Initial Investigation the Director OIE/Title IX Coordinator shall seek to determine if the Respondent is also willing to engage in Informal Resolution before seeking the parties' written, voluntary consent.
- (ix) If a Formal Grievance Process is requested by the Complainant or the Respondent, the Director OIE/Title IX Coordinator will proceed with the Initial Investigation and Formal Grievance process, continuing the investigation to address:
  - i. an incident, and/or
  - ii. a pattern of alleged misconduct, and/or a culture/climate issue, based on the nature of the complaint

**(b) Informal Report**

- (i) A statement or summary received by the Director of OIE/Title IX Coordinator from a third-party or a Complaint signed by the Director OIE/Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that the College investigate the allegation.

**(3) Informal Resolution (Non-Title IX)** - May be used at any point prior to reaching a determination of responsibility as long as an Informal

Report or Formal Complaint has been received by the OIE. All parties must provide voluntary, written consent to engage in an Informal Resolution process. OIE maintains records of any resolution that is reached, and failure to abide by the accord may result in appropriate responsive/disciplinary actions. Informal resolution can occur:

- (a) When the parties agree to resolve the matter through an alternate resolution mechanism (i.e. mediation, restorative practices etc.)
- (b) When the Director OIE/Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.

(4) **Informal Resolution (Title IX)** - May be used at any point after a final determination as to formal grievance eligibility (see 12 below). All parties must provide voluntary, written consent to engage in an Informal Resolution process. OIE maintains records of any resolution that is reached, and failure to abide by the accord may result in appropriate responsive/disciplinary actions. Federal Title IX Regulations prohibit informal resolution in the case of reports of Sexual Harassment (Title IX) defined above brought by a student against a College employee. Informal resolution can occur:

- (a) When the parties agree to resolve the matter through an alternate resolution mechanism (i.e. mediation, restorative practices etc.)

(5) **Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process.**

- (a) If the Respondent admits responsibility for all alleged misconduct, the matter is referred to the Decision Maker who will determine appropriate sanctions and/or responsive actions in coordination with other appropriate administrator(s).
- (b) Appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.
- (c) If the Respondent only admits to part of the alleged policy violations, then the contested allegations will be resolved using the Formal Grievance process and the Decision Maker will determine appropriate sanctions for all admitted violations and findings of violation.
- (d) Any applicable sanctions will be issued upon completion of the Formal Grievance Process.

(6) **The Director OIE/Title IX will provide the parties in Non-Title IX and Title IX cases with written notice for Informal Resolution which will include the following:**

- (a) Allegations;
- (b) Requirements of the Informal Resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
- (c) Right of any party at any time prior to agreeing to a resolution to withdraw from the Informal Resolution process and resume the Formal Grievance process with respect to the Formal Complaint
- (d) Right of any party at any time prior to agreeing to a resolution to withdraw from the Informal Resolution process and resume the Formal Grievance process with respect to the formal complaint and;
- (e) Any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared.
  - (i) Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with College policy. While there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose. College encourages parties to discuss this with their Advisors (if applicable) before doing so.

**(7) Notice of Investigation**

- (a) Upon receipt of a Formal Complaint or Informal Report, the Director of OIE/Title IX Coordinator or a designee shall send the Complainant formal Notice of Investigation providing the next steps in the Initial Assessment process.
- (b) If it is determined during the Initial Assessment, the Complaint alleges facts related to discrimination based on protected class status, the Director of OIE/Title IX shall send a Notice of Investigation to the Respondent and continue the Initial Investigation process.

**(8) Initial Assessment/Investigation Process** - For purposes of this procedure the Initial Assessment is part of the Investigation process. The steps in an Initial Assessment/Investigation can include: Threat Assessments, Supportive Measures, Informal Resolutions, and Formal Grievance.

- (a) If a complaint contains facts sufficient to support an allegation of discrimination based on a protected class status, the Director of OIE/Title IX shall send Initial Investigation Letters to both Complainant and Respondent. Written notice may be delivered in person, mailed to the local or permanent addresses of the parties as indicated in official College records, or e-mailed to the parties College-issued email accounts. Once mailed, e-mailed, and/or received in person, notice will be presumptively delivered. Written Notice may include the following:
  - (i) A summary of the allegations including (if known) the identity of the parties involved;
  - (ii) The precise misconduct being alleged;
  - (iii) The date and location (if known) of the alleged incident(s);
  - (iv) The specific policies implicated, and a description of the applicable procedures;
  - (v) A statement of the potential sanctions/responsive actions that could result;
  - (vi) A statement that the College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination under the preponderance of the evidence standard;
  - (vii) A statement that determinations of responsibility are made at the conclusion of the process;
  - (viii) A statement that a party may have an advisor of choice and, in the event of a live cross-examination hearing, they must have an advisor of their choice or one appointed for them by the College;
  - (ix) A statement about the College's policy on retaliation;
  - (x) Information about the privacy of the process
  - (xi) Detail on how the party may request disability accommodations during the interview process;
  - (xii) The name of the investigator(s) along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the investigators may have;
  - (xiii) A statement that parties may request to inspect and review evidence obtained, so that each party can respond to it prior to the close of the investigation; and;

- (xiv) A statement informing the parties of any provision in the College policy/code of conduct/etc., that prohibits knowingly making false statements, including knowingly submitting false information during the resolution process, and;
  - (xv) An instruction to preserve any evidence that is directly related to the allegations.
- (b) The Director OIE/Title IX Coordinator or designee will conduct an Initial Investigation which includes interviews with the Complainant. The Director OIE/Title IX Coordinator will review any evidence collected including but not limited to the interview with the Complainant and other appropriate parties and will make a threshold assessment of whether the allegation meets the elements of discrimination based on a protected class status.
  - (c) At any time during the Initial Assessment if the Director of OIE/Title IX concludes the entire Complaint or any portion does not qualify as an allegation of discrimination based on a protected class status or Title IX, the Director of OIE/Title IX shall close the Complaint with written notice to the parties and refer the Complaint, when appropriate, to the appropriate college department for resolution.
  - (d) If the initial evidence would support further investigation into the allegations set forth in the Complaint of discrimination based on a protected class status, the Director of OIE/Title IX shall send a formal Initial Assessment Letter to both the Complainant and Respondent outlining the entire investigation and decision-making process. The Director of OIE/Title IX or a designee shall also send formal Notice of Investigation Letters.
  - (e) The Director of OIE/Title IX shall also evaluate allegations involving violence, threat, pattern, predation, minors, and/or the use of a weapon, and whether a more restrictive and immediate action is necessary such as Emergency Removal. The OIE shall also determine if it is necessary based on the totality of the circumstances to impose other Interim Actions.

**(9) Appeal of the Initial Assessment**

- (a) The Complainant and Respondent may appeal the decision of the Initial Assessment to the Decision Maker within five (5) business days of receipt of the decision.
- (b) The Decision Maker shall review the Probable Cause determination and may request that the Director OIE/Title IX Coordinator review the probable cause determination and/or reopen the investigation.

**(10) Role of Advisor (Title IX/Sex & Gender Discrimination)**

- (a) Parties are required to have an Advisor present for the Formal Grievance Hearing.
- (b) The Director OIE/Title IX will also offer to assign a trained Advisor for the hearing if any party if the party does not have one.
- (c) Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing, but must be conducted by the parties' Advisors.
  - (i) Parties may be accompanied by their Advisor in all meetings and interviews at which the party is expected to be present, including intake and interviews.
  - (ii) Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity and good faith.
  - (iii) A party may not proceed in the Hearing without an Advisor.

- (iv) The parties are not permitted to directly cross-examine each other or any witnesses.
- (v) If a party does not have an Advisor for a hearing, the College will appoint a trained Advisor for the limited purpose of conducting any cross-examination.
- (vi) The College does not guarantee equity of advisors. For example, if one party pays for their own attorney-advisor and the other party requests an advisor from the College, the College is not obligated to provide an attorney to the other party.

**(11) Role of Advisor (Non-Title IX and/or Sex and Gender Allegations)**

- (a) An advisor cannot actively participate in the process, but can attend all meetings/hearings as a silent support person.

**(12) Final Determination as to Formal Grievance Eligibility – Title IX**

- (a) The investigative report will include an assessment as to whether the reported conduct is eligible for a hearing pursuant to the factors in (8)(a). The Director OIE/Title IX Coordinator will review the assessment and determine whether the Director OIE/Title IX concurs with the assessment of the Investigator and whether a hearing will be held.
- (b) Cases subject to Mandatory and Discretionary Dismissal under Title IX and may be subject to hearing eligibility under the College's policy against sexual misconduct.
- (c) If the Director OIE determines that the case is eligible for a hearing, the case shall proceed to a Hearing pursuant to (15)

**(13) Final Determination as to Hearing Eligibility for Civil Rights**

- (a) The investigative report will include an assessment as to whether the reported conduct is eligible for a hearing pursuant to the factors in (8)(a) above. The Director OIE/Title IX Coordinator will review the assessment and determine whether the Director OIE/Title IX Coordinator concurs with the assessment of the investigator and whether a hearing will be held.
- (b) If the Director OIE/Title IX Coordinator determines the case is eligible for a hearing, the case shall proceed to a Hearing pursuant to (15)

**(14) Mandatory and Discretionary Dismissal (Title IX)**

- (a) The College must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:
  - (i) The conduct alleged in the formal complaint would not constitute sexual harassment as defined by Title IX hereinabove, even if proved; and/or;
  - (ii) The conduct did not occur in an educational program or activity controlled by the College (including buildings or property controlled by recognized student organizations), and/or the College does not have control of the Respondent; and/or;
  - (iii) The conduct did not occur against a person in the United States; and/or;
  - (iv) At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education

program or activity of the College.

**(15) Hearing Resolution/Formal Grievance Process – Decision Maker (Non-Title IX & Non-Sex and Gender)**

**(a) Decision-Maker Composition**

- (i) The Decision-Maker will not have had any previous involvement with the investigation.
- (ii) The Decision-Maker renders the final determination responsibility, based on the Preponderance of the Evidence.
- (iii) Civil Rights – Decision Maker Non-Title IX and Non-Sex and Gender
  - i. Shall be a three-member panel, including Chair, comprised of Deans of Student Affairs, excluding the Dean of the Campus in which the allegation is alleged to have occurred to hear all other Civil Rights complaints.
  - ii. In the event the allegation involves multiple campuses, the panel shall include the Director of the Brunswick Campus, Workforce or Corporate College.
- (iv) Title IX/Sex & Gender – Decision Maker Title IX
  - i. Shall be outside counsel appointed to hear and decide Title IX and/or sex/gender allegations.

**(b) Referral for Hearing**

- (i) Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Director OIE/Title IX will refer the matter for a hearing.
- (ii) The hearing cannot be less than ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the parties and the Decision Maker.
- (iii) The Director OIE/Title IX will select an appropriate Decision Maker(s) depending on whether the allegation is based on sexual harassment/Title IX or non-sexual harassment and non-title IX.
- (iv) The College may use an internal or external Decision Maker at its discretion.

**(c) Evidentiary Considerations in the Hearing for Title IX and/or Sex & Gender Discrimination**

- (i) The Decision Maker determines the relevancy of each question at live cross-examination hearing and assigns weight and credibility to the evidence only after the hearing when writing the written determination.
- (ii) Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility, assuming the College uses a progressive discipline system. This information is only considered at the sanction stage of the process.
- (iii) The parties may each submit a written impact statement prior to the Decision Maker Chair for the consideration at the sanction stage of the process after a determination of responsibility is reached.
- (iv) After post-hearing deliberation, the Decision Maker renders a written determination based the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

**(d) Evidentiary Considerations in the Hearing for all other Civil Rights Discrimination**

- (i) The Decision Maker can consider the report from the Office of Institutional Equity.
- (ii) The Decision Maker can consider live testimony from both the Complainant and Respondent, including a rebuttal for both parties after the initial position statement.
- (iii) Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility, assuming the College uses a progressive discipline system. This information is only considered at the sanction stage of the process.
- (iv) The parties may each submit a written impact statement prior to the Decision Maker Chair for the consideration at the sanction state of the process after a determination of responsibility is reached.

**(e) Notice of Hearing**

- (i) No less than ten (10) business days prior to the hearing, the Director OIE/Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.
- (ii) The notice will contain:
  - i. A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
  - ii. The time, date, and location of the hearing and a reminder that attendance is mandatory (for non-TIX matters only), superseding all other campus activities.
  - iii. Any technology that will be used to facilitate the hearing.
  - iv. Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision Maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Director OIE/Title IX Coordinator at least five (5) business days prior to the hearing.
  - v. A list of all those who will attend the hearing, along with an invitation to object to any Decision Maker member on the basis of demonstrated bias. This must be raised with the Director OIE/ Title IX Coordinator at least two (2) business days prior to the hearing.
  - vi. Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
  - vii. A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision Maker. For compelling reasons, the Decision Maker Chair may reschedule the hearing.
  - viii. Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Director

OIE/Title IX Coordinator if they do not have an Advisor, and the College will appoint one. Each party must have an Advisor present. There are no exceptions.

- ix. A copy of all the materials provided to the Decision Maker about the matter, unless they have been provided already.
  - x. An invitation to each party to submit to the Decision Maker Chair an impact statement pre-hearing that the Decision Maker will review during any sanction determination.
  - xi. An invitation to contact the Director OIE/Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
  - xii. Whether parties can/cannot bring mobile phones/devices into the hearing.
- (iii) Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the College and remain within the 60-90 business day goal for resolution.

**(f) Alternative Hearing Participation Options**

- (i) If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Director OIE/Title IX Coordinator or the Chair at least five (5) business days prior to the hearing.
- (ii) The Director OIE/Title IX Coordinator or the Chair can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Director OIE/Title IX Coordinator or the Chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

**(g) Pre-Hearing Preparation**

- (i) The Chair, after any necessary consultation with the parties, Investigator(s) and/or Director OIE/Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.
- (ii) Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have proffered a written statement or answered written question, unless all parties assent to the witness' participation in the hearing. The Decision Maker Chair holds the discretion to return the matter to the Investigator to reopen the investigation on the limited purpose of the information provided by the new witness.
- (iii) For any new evidence submitted or raised for the first time at the hearing, the Decision Maker Chair retains the discretion to return the matter to the investigator to reopen the investigation on the limited purpose of following up on the new evidence and providing the parties the same opportunity to review and respond to the new evidence before investigation report and hearing.
- (iv) The parties will be given the name of the Decision Maker or a list of the names of the Decision Maker at least five (5) business days in advance of the hearing.



- i. All objections to the Decision Maker or any member of the Decision Maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Director OIE/Title IX Coordinator as soon as possible and no later than one day prior to the hearing.
  - ii. The Decision Maker members will only be removed if the Director OIE/Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).
- (v) The Director OIE/Title IX Coordinator will give the Decision Maker a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing.
- (vi) Any Decision Maker member who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing.
- i. If a Decision Maker member is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Director OIE/Title IX Coordinator as soon as possible.
- (vii) During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Decision Maker Chair at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Decision Maker Chair.

**(h) Pre-Hearing Meetings**

- (i) The Decision Maker may convene a pre-hearing meeting(s) with the parties and/or their Advisors to invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Decision Maker Chair can rule on their relevance (Title IX only) ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing.
- i. However, this advance review opportunity does not preclude the Advisors from asking at the hearing for a reconsideration based on any new information or testimony offered at the hearing.
  - ii. The Decision Maker Chair must document and share their rationale for any exclusion or inclusion at this pre-hearing meeting.
- (ii) At each pre-hearing meeting with a party and their Advisor, the Decision Maker Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant.
- (iii) The Decision Maker Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Decision Maker Chair may consult with legal counsel and/or the Director OIE/Title IX Coordinator, or ask either or both to attend pre-hearing meetings.
- (iv) The pre-hearing meeting(s) will be recorded by the College only.

**(i) Hearing Procedures**

- (i) At the hearing, the Decision Maker has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations

that have occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the policy on Discrimination, Harassment, Sexual Misconduct, Title IX and Retaliation.

(ii) Participants at the hearing will include:

- i. the Chair or;
- ii. the Decision Maker, and
- iii. the hearing facilitator;
- iv. the Director OIE/Title IX Coordinator and any other Investigator(s) who conducted the investigation
- v. the parties (or three (3) organizational representatives when an organization is the Respondent)
- vi. Advisors to the parties
- vii. Any called witnesses
- viii. Anyone providing authorized accommodations or assistive services or otherwise required by law.

(iii) The Decision Maker Chair, or hearing facilitator will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

(iv) The Decision Maker Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision Maker(s) and the parties and will then be excused.

**(j) Joint Hearings**

(i) In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

(ii) The Director OIE/Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

**(k) The Order of the Hearing – Introductions and Explanation of Procedure**

(i) The Decision Maker Chair, or hearing facilitator explains the procedures and introduces the participants.

- i. This may include a final opportunity for challenge or recusal of the Decision Maker on the basis of bias or conflict of interest.
- ii. If the hearing is run by a Chair and Decision Maker, the Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Director OIE/Title IX Coordinator will review and decide the challenge.

- (ii) The Decision Maker Chair conducts the hearing according to the hearing script.
- (iii) At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Director OIE/Title IX Coordinator.
  - i. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

**(l) Investigator Presents the Final Investigation Report**

- (i) The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision Maker and the parties (through their Advisors for Title IX matters).
- (ii) The Investigator(s) will be present during the entire hearing process, but not during deliberations.
- (iii) None of the parties or Decision Maker may ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Decision Maker Chair will direct that it be disregarded.

**(m) Testimony and Questioning**

- (i) Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Decision Maker or the Chair.
- (ii) The parties/witnesses will submit to questioning by the Decision Maker and then by the parties themselves (Civil Rights) or through their Advisors (Title IX and/or Sex & Gender Discrimination) (“cross-examination”).
  - i. Advisors must conduct the cross examination for all Title IX hearings only.
  - ii. If a party does not have an Advisor, the College will provide them one of the College’s choosing. However, the Advisor provided by the College need not be an attorney, even where the other party is represented by an attorney.
  - iii. For non-Title IX related matters, Advisors may attend, but cannot participate.
- (iii) The parties/witnesses will submit to questioning by the Decision Maker and then by the parties themselves (“cross examination”) for non-Title IX matters.
- (iv) All questions are subject to a relevance determination by the Decision Maker (Title IX only).
  - i. The Advisor, who will remain seated during questioning, will pose the proposed question orally (required in TIX process), electronically, or in writing (orally is the default, but other means of submission may be permitted by the Decision Maker upon request or agreed to by the parties and the Decision Maker ;

- ii. The proceeding will pause to allow the Decision Maker or the Chair to consider it;
  - iii. The Decision Maker or the Chair will determine whether the question is relevant.
- (v) The Decision Maker or the Chair retains the discretion to explore arguments regarding relevance with the Advisors (Title IX) or the parties themselves.
- (vi) The Decision Maker or the Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly.
- (vii) The Decision Maker or the chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance (Title IX).
- i. The Decision Maker or the Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive.
  - ii. The Decision Maker or the Chair has final say on all questions and determinations of relevance, subject to any appeal. The Decision Maker or the Chair may consult with legal counsel on any questions of admissibility.
  - iii. The Decision Maker or the Chair may ask advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the Decision Maker or the Chair has ruled on a question.
- (viii) If the parties raise an issue of bias or conflict of interest of an Investigator or Decision Maker member at the hearing, the Decision Maker or Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Director OIE/Title IX Coordinator, and/or preserve them for appeal.
- i. If bias is not in issue at the hearing, the Decision Maker or the Chair should not permit irrelevant questions that probe for bias.

**(n) Refusal to Submit to Cross-Examination and Inferences**

- (i) If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision Maker may not rely on any prior statement made by that party or witness that has not been tested on cross-examination at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility.
- i. The Decision Maker(s) must disregard any prior statement made by a party or witness who fails to attend or refuses to participate in cross examination.
  - ii. Evidence provided that is something other than a statement by the party or witness may be considered.
- (ii) Only statements subjected to cross-examination will be considered by the Decision Maker(s) when writing the written determination. However, where the statement itself is the sexual harassment, that statement does not have to be subjected to cross-examination to be considered by the Decision Maker(s).
- (iii) The Decision Maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

- (iv) If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision Maker(s) may:
  - i. consider all evidence it deems relevant
  - ii. may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and
  - iii. may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.
- (v) If a party's Advisor of choice refuses to comply with the College's established rules of decorum for the hearing, the College may require the party to use a different Advisor. If a College-provided Advisor refuses to comply with the rules of decorum, the College may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

**(o) Recording Hearings**

- (i) Hearings (but not deliberations) are recorded by the College for purposes of review in the event of an appeal. The College does not record conversations that occur between the parties and their Advisors on breaks. The parties may not record the proceedings and no other unauthorized recordings are permitted.
- (ii) The Decision Maker(s), the parties, their Advisors, and appropriate administrators of the College will be permitted to listen to the recording in a controlled environment determined by the Director OIE/Title IX Coordinator.
- (iii) No person will be given or be allowed to make a copy of the recording without permission of the Director OIE/Title IX Coordinator

**(p) Deliberation, Decision-Making, and Standard of Proof**

- (i) The Decision Maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding.
- (ii) The preponderance of the evidence standard of proof is used
- (iii) The Decision Maker or the Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies).
  - i. The Decision Maker(s) – at their discretion – consider the statements, but they are not binding.
  - ii. The Decision Maker(s) will review the statements and any pertinent conduct history provided by the appropriate administrator and will determine the appropriate sanction(s) in consultation with other appropriate administrators as required.

**(q) Written Determination by Decision Maker(s)**

- (i) The Decision Maker or the Chair will deliberate in private and write a written determination regarding responsibility

and, if applicable, sanction.

(ii) The Decision Maker(s) will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within 20 business days of receiving the Decision Makers deliberation statement.

(iii) The written determination must include:

- i. Identification of the allegations potentially constituting discrimination, harassment, sexual misconduct or Title IX.
- ii. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence; and hearings held;
- iii. A statement of, and rationale for, the result of each allegation, including determination regarding responsibility to the extent the College is permitted to share such information under state or federal law;
- iv. any sanctions issued which the College is permitted to share according to state or federal law; and
- v. any remedies provided to the Complainant designed to ensure access to the College's educational or employment program or activity, to the extent the College is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

(iv) The written determination will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official College records, or emailed to the parties' College-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

(v) The written determination of the Decision Maker(s) may be appealed by any party for the basis in the Appeal Grounds.

**(r) Sanctions**

(i) Factors considered when determining a sanction/responsive action may include, but are not limited to:

- i. The nature, severity of, and circumstances surrounding the violation;
- ii. The Respondent's disciplinary history;
- iii. Previous allegations or allegations involving similar conduct;
- iv. No other information deemed relevant by the Panel;
- v. The need for sanctions/responsive actions to bring an end to the discrimination, harassment or sexual misconduct;
- vi. the need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation;

- vii. The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community;
- viii. The impact on the parties.

(ii) Sanctions will be implemented as soon as is feasible.

(iii) **Employee Sanctions**

- i. Warning (verbal or written),
- ii. Performance improvement/management process,
- iii. Required counseling,
- iv. Required training or education,
- v. Probation,
- vi. Loss of annual pay increase,
- vii. Loss of oversight or supervisory responsibility,
- viii. Demotion,
- ix. Suspension with or without pay,
- x. Termination,
- xi. In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

(iv) **Student Sanctions**

- i. **Warning**- a formal statement that the conduct was unacceptable and a warning that further violation of any College policy, procedure, or directive will result in more severe sanctions/responsive actions
- ii. **Required Counseling** - a mandate to meet with and engage in either College- sponsored or external counseling to better comprehend the misconduct and its effects.
- iii. **Probation** - a written reprimand for violation of College policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any College policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, no-contact orders, and/or other measures deemed appropriate
- iv. **Suspension** - Termination of student status for a definite period of time not to exceed two years/and or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as student at the College. At the discretion of the Director OIE/Title IX Coordinator, this sanction may be noted as a Disciplinary Suspension on the student's official transcript during the period of suspension

- v. **Expulsion** - Permanent termination of student status and revocation of rights to be on campus for any reason or to attend the College-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript subject to any applicable expungement policies.
- vi. **Withholding Diploma** - The College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.
- vii. **Revocation of Degree** - the College reserves the right to revoke a degree previously awarded from the College for fraud, misrepresentation, or other violation of College policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- viii. **Organizational Sanctions** - deactivation, loss of recognition, loss of some or all privileges (including College registration) for a specified period of time.
- ix. In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate

(s) **Remedies**

- (i) Where a determination of responsibility for Prohibited Conduct is made, the College will provide remedies to a complainant designed to restore or preserve equal access to the College's education program or activity. Such remedies may include the same individualized services provided as supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. The Director of Institutional Equity is responsible for effective implementation of remedies.
- (ii) Where the final determination has indicated that remedies will be provided, the complainant can then communicate separately with the Director of Institutional Equity or their designee to discuss what remedies are appropriately designed to preserve or restore the complainant's equal access to education. Remedies for a complainant which do not affect the respondent must not be disclosed to the respondent.

(t) **Withdrawal or Resignation While Charges Pending**

(i) Students

- i. Should a student decide to not participate in the resolution process and/or withdraws from the College, the process proceeds absent their participation to a reasonable resolution.
- ii. Should a student Respondent permanently withdraw from the College, the resolution process ends, as the College no longer has disciplinary jurisdiction over the withdrawn student. However, the College will continue to address and remedy any systemic issues, variables that have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.
- iii. During the resolution process, the College may put a hold on a Responding student's transcript or place a note on a Responding student's transcript or dean's disciplinary certification that a disciplinary matter is pending.
- iv. A hold will be placed on their ability to be readmitted.
- v. If the student only withdraws or take a leave for a specified period of time (e.g. one semester or term), the



resolution process will continue and that student is not permitted to return to the College until they meet with the Office of Institutional Equity and/or Student Affairs or unless and until all sanctions have been satisfied.

**(ii) Employees**

- i. Should an employee resign with unresolved allegations pending, the resolution process ends, as the College no longer has disciplinary jurisdiction over the resigned employee. However, the College will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.
- ii. The employee who resigns with unresolved allegations pending is not eligible for rehire with the College, and the records retained by the Director OIE/Title IX Coordinator will reflect that status.
- iii. All College responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.
- iv. Should an employee resign with unresolved allegations pending, the resolution process ends, as the College no longer has disciplinary jurisdiction over the resigned employee. However, the College will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.
- v. The employee who resigns with unresolved allegations pending is not eligible for rehire with the College, and the records retained by the Director OIE/Title IX Coordinator will reflect that status.
- vi. All College responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

**(u) Appeals**

- (i) All requests for appeals of a written determination must be submitted in writing to the Director OIE/Title IX Coordinator within five (5) days of the issuance of the written determination to the parties.
- (ii) Appeals are reviewed by the respective Appeals Officer.
- (iii) The decision of the Appeals Officer is final.

**(v) Appeals Officer**

- (i) For complaints of Prohibited Conduct (Title IX), the College shall appoint an independent outside jurist to serve as the Appeals Office.
- (ii) For all other complaints, the Director of Compliance and Continuity shall serve as the Appeals Officer for all decisions involving allegations of students against students or students against employees; The Director of Human Resources will serve as the Appeals Officer for all decisions involving allegations of employee against employee.

**(w) Appeal Grounds**

- (i) The Appeals Officer will review the appeal request(s) subject to the following grounds:

- i. The Procedural error or omission occurred that impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures).
  - ii. To consider new evidence unknown or unavailable during the investigation, that could impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
  - iii. The Director OIE/Title IX Coordinator, Deputy Institutional Equity Coordinators, Investigators or Decision Maker had a conflict of interest or bias that affected the outcome of the matter.
- (ii) The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed (above), and such a decision is final.
- i. The party requesting appeal must show that one or more of the appeal grounds has been met, and the other party or parties may, provide a rebuttal statement, or appeal request if there are sufficient grounds.
  - ii. The original finding and sanction are presumed to have been decided reasonably and appropriately.
- (iii) When any party requests an appeal, the Director OIE/Title IX Coordinator will share the appeal request with the other party(ies), who may file a response within three (3) days of receiving a copy of the appeal, and/or bring their own appeal on separate grounds within the original appeal timeframe.
- i. If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within three (3) days. Any response or appeal request will be shared with each party.
  - ii. The Appeals Officer will review the appeals request within three (3) business days of completing the pre-appeal exchange of materials.
  - iii. If the grounds do not satisfy the appeal requirements listed above in this section or the appeal is not timely, the Appeal Officer may dismiss the appeal.
- (iv) When the Appeals Officer finds that at least one of the grounds is met by at least one party, additional principles governing the hearing of appeals will include the following:
- i. Decisions by the Decision Maker are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
  - ii. Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the grounds for appeal.
  - iii. An appeal is not an opportunity for Appeals Officer to substitute their judgment for that of the original Panel merely because they disagree with its finding and/or sanctions.
  - iv. The Appeals Officer may consult with the Decision Maker Chair on questions of procedure or rationale for clarification, if needed.
  - v. Appeals granted based on new evidence should normally be remanded to the Director OIE/Title IX Coordinator and/or Decision Maker for reconsideration.

- (v) The Director OIE/Title IX Coordinator will confer with the appeals panel/Chair, incorporate the results of any remanded grounds and the rationale for the decision, and render a written decision on the appeal to all parties within three (3) days from the hearing of the appeal or remand.
  - i. The letter of outcome for the appeal will be shared with the parties without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official College records, or emailed to the parties' College-issued email account.
  - ii. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.
  - iii. The letter of outcome for the appeal will specify the finding on each alleged policy violation, any sanctions that may result which the College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law.
  - iv. The letter will also include information that this is a final result.
  - v. Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- (vi) In rare cases where a procedural or substantive error cannot be cured by the original Panel, as in cases of bias, the appeals panel may recommend a new hearing with a new Panel.
  - i. The results of a remand to a Panel cannot be appealed.
  - ii. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.

**(x) Record Retention**

- (i) College will maintain for a period of at least seven years records of:
  - i. Each discrimination/harassment/sexual misconduct/Title IX or retaliation investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
  - ii. Any disciplinary sanctions imposed on the Respondent;
  - iii. Any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity;
  - iv. Any appeal and the result therefrom;
  - v. Any Informal Resolution and the result therefrom;
  - vi. All materials used to train Title IX Coordinators, Investigators, Decision Maker, and any person who facilitates an Informal Resolution process. College will make these training materials publicly available on College's website. (Note: If the College does not maintain a website, the College must make these materials available upon request for inspection by members of the public.); and

vii. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:

1. The basis for all conclusions that the response was not deliberately indifferent;
2. Any measures designed to restore or preserve equal access to the College's education program or activity; and
3. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

viii. College will also maintain any and all records in accordance with state and federal laws

**(y) Disabilities Accommodations in Formal Grievance Process**

- (i) The College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the resolution process at the College.
- (ii) Anyone needing such accommodations or support should contact the Student Accessibility Services Office (SAS) or appropriate Leave Coordinator in Human Resources, who will review the request and, in consultation with the person requesting the accommodation and the Director OIE/Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

Effective date: January 28, 2021