



# Interim Grievance Procedures for Complaints of Sex Discrimination and Sex- Based Harassment (2024 Title IX Regulations)

Procedure Number: 3-C

Adopted By: Matt Gianneschi, President

Effective Date: August 1, 2024

Related Board Policy: 3-12 Sexual Misconduct

## I. Purpose

Colorado Mountain College (hereinafter “the College”) is committed to fostering an educational and employment environment that is free from Sex Discrimination and Retaliation.<sup>1</sup> In furtherance of that commitment, the College takes measures to increase awareness, eliminate its occurrence, encourage reporting, provide support, promptly respond to any report of Sex Discrimination, ensure equitable treatment and resolution of complaints of Sex Discrimination, and takes appropriate actions against those found responsible for engaging in Sex Discrimination and Retaliation.

The College also prohibits any policy, practice, or procedure concerning pregnant and related conditions and the current, potential, or past parental status, family status, or marital status of a student, employee, or applicant for admission or employment that treats individuals differently on the basis of sex.

This document describes the procedures the College applies when it receives a report of possible Sex Discrimination. This procedure is intended to ensure a safe and non-discriminatory educational and work environment and describes the process by which the College meets its obligations under Title IX and its implementing regulations.<sup>2</sup>

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<sup>1</sup> Terms that are capitalized are defined in this procedure.

<sup>2</sup> This procedure is also designed to comply with the Violence Against Women Act (“VAWA”) (42 U.S.C. § 13925) and its implementing regulations, 24 C.F.R. § 5.2001.

## II. Notice of Nondiscrimination

The College does not discriminate on the basis of sex and prohibits Sex Discrimination, which includes sexual harassment and sexual assault, in any education program or activity that it operates, including in admission and employment.

The College will promptly, effectively, and equitably address any such discrimination of which it has knowledge using the resolution process set forth in this procedure.

Individuals may report concerns or questions about conduct that may constitute Sex Discrimination and Retaliation to the College's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both.

### **Title IX Coordinator:**

Lisa Doak  
Assistant Vice President/Dean of Students/Title IX Coordinator  
802 Grand Avenue  
Glenwood Springs, CO 81601  
(970) 947-8351  
[ldoak@coloradomtn.edu](mailto:ldoak@coloradomtn.edu). [Lisa Doak's Email](#)

You may also report information or make a complaint about conduct that may constitute sex-based discrimination or harassment under Title IX at [Report a Title IX Complaint](#).

The Department of Education's Office for Civil Rights contact information is available at <https://ocrcas.ed.gov/contact-ocr>. [DOE Office of Civil Rights email](#)

The College's nondiscrimination policy and grievance procedures can be located at [Notice of Nondiscrimination](#).

## III. Scope and Jurisdiction

### A. Who Is Covered

All students, faculty, staff, and others, including third-party vendors, who participate in College programs and activities, including education and employment, are subject to this procedure.

## **B. What Conduct Is Covered**

### **i. Applicable Timeframe**

This procedure applies to Sex Discrimination and Retaliation as defined under Title IX occurring on or after August 1, 2024.<sup>3</sup>

### **ii. Sex Discrimination and Sex-Based Harassment**

Sex Discrimination includes discrimination **on the basis of sex** and sex-based harassment.

Discrimination is different treatment based on an individual's perceived protected characteristic that excludes, denies, or has an adverse impact on the person's participation in a College program or activity or employment.

"On the basis of sex" means conduct that is directed to a Complainant because of their sex, which includes sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

"Sex-based harassment" includes three types of harassment on the basis of sex: (1) quid pro quo harassment by a College employee; (2) unwelcome sex-based conduct that based on the totality of circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person from participating in or benefiting from the College's education or activity; or (3) sexual assault, dating violence, domestic violence, or stalking.

Conduct that does not constitute Sex Discrimination as defined under Title IX and the implementing regulations does not fall within the scope of these grievance procedures but may be addressed through other applicable College policies and procedures.

### **iii. Education Program or Activity**

This Policy applies to the College's education programs and activities, which includes on-campus and off-campus locations, events, or circumstances over which the College exercises substantial control over the Respondent and the context in which the conduct occurred, including conduct that occurs in a building owned or controlled by a College-recognized student organization and conduct that is subject to the College's disciplinary authority.

Conduct alleged to contribute to a sex-based hostile environment within the College's education programs or activities but that occurred outside the College's education programs or activities or outside the United States may be addressed under this procedure. This may include study abroad programs and online conduct that limits or denies access to the College's

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<sup>3</sup> For Sex Discrimination that occurred prior to August 1, 2024, the policy and procedure in effect at the time of the alleged incident apply and are available at [CMC Policies & Procedures](#).

education programs or activities or involves the use of College networks, technology, or equipment.

If the Respondent is unknown or is not a member of the College community, the College will offer to assist the Complainant to identify resources and supportive measures, which may include contacting local law enforcement.

When a party is participating in a concurrent or dual enrollment program, the College will coordinate with the party's home institution to determine jurisdiction and coordinate responding to the complaint under the appropriate policy and procedures based on the circumstances.

## **IV. Reporting Sex Discrimination**

### **A. What to Report**

The types of Sex Discrimination and Sex-Based Harassment covered by this Title IX procedure includes conduct that satisfies one or more of the definitions below.<sup>4</sup> Sexual misconduct or other discrimination on the basis of sex or other protected characteristics that does not fall within these specific definitions may still violate College policy, such as Policy 6.1 and should be reported to the Title IX Coordinator and/or Human Resources.

#### **1. Sex-Based Harassment**

Conduct, on the basis of sex, that satisfies one or more of the following:

- a. An employee, agent, or other authorized person of the College explicitly or implicitly conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct.
- b. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College's education programs or activities.

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<sup>4</sup> Please note that this procedure is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

## 2. Sexual Assault<sup>5</sup>

Any sexual act<sup>6</sup> directed against a Complainant without the affirmative consent of the Complainant, including instances in which the Complainant is incapable of giving affirmative consent.

**a. Affirmative consent** means knowing, conscious, voluntary, clear permission by word or action to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that the person has the Affirmative Consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean Affirmative Consent, nor does silence mean Affirmative Consent. Affirmative Consent must be ongoing throughout a sexual activity and can be revoked at any time. Affirmative Consent may be based on a condition(s), such as the use of a condom, and that condition(s) must continue to be met throughout an activity, unless there is mutual agreement to forego or change the condition. When there is no Affirmative Consent present during sexual activity, the activity at issue necessarily occurred against the person's will.

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<sup>5</sup> Section 106.2 of the 2024 Title IX regulations provides that "sexual assault" for purposes of Title IX is defined as an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

<sup>6</sup> The following sexual acts are covered by this definition as derived from the FBI Uniform Crime Reporting system. Please note that the College has made slight, non-substantive modifications to the FBI definitions for clarity and consistency with defined terms used within this title IX procedure, such as "Complainant," "affirmative consent," and "incapacitation."

- **Rape.** Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Affirmative Consent of the Complainant.
- **Sodomy.** Oral or anal sexual intercourse with another person, without the Affirmative Consent of the Complainant, including instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical Incapacitation.
- **Sexual Assault with an Object.** To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the Affirmative Consent of the Complainant, including instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical Incapacitation.
- **Fondling.** The touching of the bodily parts, such as breast, groin, genitals, mouth of another person for the purpose of sexual gratification without the Affirmative Consent of the Complainant, including in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical Incapacitation.

- i. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of Affirmative Consent.
- ii. In evaluating Affirmative Consent, it cannot be a defense that a Respondent's belief that the Complainant consented to the sexual activity arose under either of the following circumstances:
  - The intoxication or recklessness of the Respondent.
  - The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant gave Affirmative Consent.
- iii. Proof of consent or non-consent is not a burden placed on either party involved in a Complaint. Instead, the burden remains on the College to determine whether its Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

**b. Incapacitation.** It shall not be a valid excuse that the Respondent believed that the Complainant Affirmatively Consented to sexual activity if the Respondent knew or reasonably should have known that the Complainant was Incapacitated. Incapacitation means the Complainant was unable to Affirmatively Consent because the Complainant was asleep, unconscious, under the influence of drugs, alcohol, or medication, such that the Complainant could not understand the fact, nature, or extent of the sexual activity, or was unable to communicate due to a mental or physical condition. Incapacitation is not necessarily the same as legal intoxication.

### 3. Nonforcible Sexual Violations

- a. **Incest** is nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Colorado law.<sup>7</sup>
- b. **Statutory Rape.** Nonforcible sexual intercourse with a person who is under the statutory age of consent in Colorado.<sup>8</sup>

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<sup>7</sup> This definition is derived from the FBI's National Incident-Based Reporting System User Manual..

<sup>8</sup> Complainant is less than fifteen years of age and Respondent is four or more years older or Complainant is less than seventeen years of age, and the Respondent is ten or more years older. Colo. Rev. Stat. § 18-3-402.

#### **4. Dating Violence<sup>9</sup>**

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 is determined based on the Complainant's statement and with consideration of the length of their relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.

#### **5. Domestic Violence<sup>10</sup>**

An act that could be classified as a felony or misdemeanor crime of violence committed by:

- a. a current or former spouse or intimate partner of the Complainant under the domestic or family violence laws of Colorado; or
- b. a person similarly situated to a spouse of the Complainant; or
- c. a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; or
- d. a person with whom the Complainant shares a child in common; or
- e. any other person who commits acts against a youth or adult who is protected from those acts under the domestic or family violence laws of Colorado.

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.

#### **6. Stalking<sup>11</sup>**

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for the person's safety or the safety of others or (b) suffer substantial emotional distress.<sup>12</sup>

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<sup>9</sup> 34 CFR § 106.2.

<sup>10</sup> 34 CFR § 106.2.

<sup>11</sup> 34 CFR § 106.2.

<sup>12</sup> For the purposes of this definition:

- a. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property.

## **7. Pregnancy and Related Conditions**

The college prohibits discrimination against any student or employee, including in admission and employment, based on the individual's current, potential, or past pregnancy or related conditions.

As used in this procedure, "pregnancy and related conditions" means pregnancy, childbirth, termination of pregnancy, or lactation; recovery from any such event, and medical conditions related to any of these events.<sup>13</sup>

### **A. Responsibility to Share Information**

Any employee who becomes aware of a student's pregnancy must provide the student (or the person who has the legal right to act on behalf of the student and informed the employee of the student's pregnancy) with the Title IX Coordinator's contact information unless the employee reasonably believes that the Title IX Coordinator has already been notified. The employee must also inform the student that the Title IX Coordinator can take specific actions to prevent Sex Discrimination and ensure equal access to the college's programs and activities.

### **B. Students and Reasonable Modifications**

The college will provide reasonable modifications to any student who is pregnant or experiencing related conditions to prevent sex discrimination and ensure equal access to the college's programs and activities.

1. A reasonable modification must be based on the student's individualized need and communication with the student to determine their needs. Reasonable modifications may include, but are not limited to:
  - Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom.
  - Intermittent absences to attend medical appointments.

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b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

c. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

<sup>13</sup> "[T]he Department interprets 'termination of pregnancy' to mean the end of pregnancy in any manner, including, miscarriage, stillbirth, or abortion." Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 89 F.R. 33474, Apr. 29, 2024, codified at 34 CFR § 106.



- Access to online or homebound education.
  - Changes in schedule or course sequence.
  - Time extensions for coursework and rescheduling of tests and examinations.
  - Allowing a student to sit or stand or carry or keep water nearby.
  - Counseling.
  - Changes in physical space or supplies (for example, access to a larger desk or a footrest).
  - Elevator access.
  - A larger uniform or other required clothing or equipment.
  - Other changes to policies, practices, or procedures determined by the Title IX Coordinator.
2. The Title IX Coordinator or designee will facilitate the provision and implementation of reasonable modifications, and may either consult, coordinate, or delegate responsibility to an Access Service Coordinator or other designee.
  3. A modification that would fundamentally alter the nature of the college's programs or activities is not reasonable.
  4. Students have the discretion to accept or decline any reasonable modification offered by the Title IX Coordinator.
  5. Students may voluntarily access any separate and comparable portion of the college's education program or activity.
  6. Students may take a voluntary leave of absence for a period of time deemed medically necessary by the student's medical provider, or the period of time permitted by college policy or the student's specific program, whichever is greater. Upon return from a leave of absence, the student must be reinstated to the academic status and, to the extent possible, extracurricular status that the student held when the voluntary leave began.
  7. Supporting documentation for reasonable modifications will not be required unless it is necessary for the college to determine the reasonable modifications to make or whether to take additional specific actions.

### **C. Employees**

Reasonable accommodations for employees who are experiencing pregnancy or related conditions are offered consistent with Title IX, Pregnant Workers Fairness Act (PWFA),<sup>14</sup> Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act)<sup>15</sup>,

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<sup>14</sup> 42 U.S.C. § 2000gg, *et seq.*

<sup>15</sup> 29 U.S.C. § 218d.

Colorado Pregnant Workers Fairness Act<sup>16</sup> and Workplace Accommodations for Nursing Mothers Act,<sup>17</sup> and college policy.

#### **D. Lactation Space**

The college provides students and employees with access to lactation spaces at each of its campuses, and reasonable break time to express breast milk or breast feed. These spaces are clean, shielded from view, and free from intrusion from others.

#### **8. Parental, Family, or Marital Status**

The college prohibits discrimination on the basis of sex related to a student or employee's current, potential, or past parental<sup>18</sup>, family<sup>19</sup>, or marital status.<sup>20</sup>

#### **9. Inclusion Related to Sexual Orientation, Gender Identity, and Gender Expression**

Discrimination and harassment on the basis of sexual orientation and gender identity or expression are not tolerated by the College. The College is committed to fostering an environment that is supportive and inclusive of all, including intersex, transgender, transitioning, agender, nonbinary, and gender-diverse students and employees. Any member of the College community who believes they have been subjected to discrimination on the basis of their sexual orientation, gender identity, or gender expression should report it to the Title IX Coordinator.

#### **10. Retaliation**

The College prohibits retaliation against any person who makes a complaint, responds to a complaint, or participates in the investigation or resolution process of any allegation under this Title IX Procedure. No person may threaten, coerce, or discriminate against any individual for pursuing or exercising any right or privilege secured by Title IX.

Retaliation includes, but is not limited to, adverse action related to employment, academic opportunities, participation in College programs or activities, or similar punitive action. Retaliation can be direct such as changing an employee's work location, pay or schedule, or for students, changing a grade or denying access to a program, or it can be indirect such as

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<sup>16</sup> Colo. Rev. Stat. § 24-34-402.3.

<sup>17</sup> Colo. Rev. Stat. § 8-13.5-101, *et seq.*

<sup>18</sup> Parental status means the status of a person who is, with respect to another person who is under the age of 18 or is 18 or older but is incapable of self-care because of a physical or mental disability, a biological, adoptive, foster, or stepparent; a legal custodian or guardian; in loco parentis; or actively seeking legal custody, guardianship, visitation, or adoption. 34 CFR § 106.2.

<sup>19</sup> Family status means the configuration of one's family or one's role in a family. 34 CFR § 106.

<sup>20</sup> Marital status means the state of being married or unmarried. 34 CFR § 106.

intimidating, threatening, or harassing an employee or student who has raised a claim or participated as a witness in an investigation. Intimidation can be a form of retaliation, and includes any threatening statement or conduct made with the intent to prevent or dissuade any party or witness from reporting or participating in the process.

Charging an individual with a code of conduct violation for making a materially false statement, tampering with, or destroying evidence, or providing misleading information during an investigation or the resolution process does not constitute retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation.

## **B. Where To Report**

### **1. Title IX Coordinator**

The Title IX Coordinator is the individual designated by the College to coordinate its efforts to comply with its Title IX responsibilities. Any person may report Sex Discrimination (whether or not the individual reporting is the person alleged to have experienced the conduct) by any means (in person, mail, telephone, or email) to the Title IX Coordinator. The College through its Title IX Coordinator will monitor the College's education programs and activities for barriers to reporting Sex Discrimination and take steps to address such barriers.

#### **Title IX Coordinator**

Lisa Doak

Assistant Vice President – Student Affairs/Dean of Students/Title IX Coordinator

802 Grand Avenue

Glenwood Springs, CO 81601

(970) 947-8351

[lidoak@coloradomtn.edu](mailto:lidoak@coloradomtn.edu) [Lisa Doak's email](#) or at [Report a Title IX Complaint](#).

### **2. Deputy Title IX Coordinators**

The Title IX Coordinator may delegate responsibility for handling a report to a Deputy Title IX Coordinator, as appropriate, or to another office or individual if the reported event falls outside of the scope of this Title IX procedure. A current list of Deputy Title IX Coordinators can be found on the College's [Notice of Nondiscrimination](#).

### **3. Reports to Law Enforcement**

If the individual is in immediate danger or believes there could be an ongoing threat to the individual or the community, please call 911. For conduct that could also constitute a crime under Colorado law, a Complainant is encouraged, but not required, to contact the police by dialing 911 or the local police agency in the jurisdiction in which the alleged incident occurred.

Individuals who experience sexual violence are encouraged to preserve evidence and to note the identity and location of witnesses. Contacting law enforcement to make a report allows for forensic evidence to be collected, which may be helpful if a decision is made to pursue criminal charges.

College officials will assist you in contacting local law enforcement authorities if you request assistance. If you believe that there is an ongoing threat to your safety from a particular individual, you may also request an emergency protective restraining order through law enforcement or the court system.

### **C. Duty To Report and Confidential Employees**

All College employees, including student employees, other than those deemed Confidential Employees, are required to promptly report any and all conduct that reasonably may constitute Sex Discrimination, Sex-Based Harassment, or Retaliation to the Title IX Coordinator.

Failure to report an incident of Sex Discrimination and Retaliation of which an individual become aware is a violation of College policy and procedure and may result in disciplinary action.

Although an individual who experiences Sex Discrimination, Sex-Based Harassment, or Retaliation covered under this procedure is not required to report their own experience, they are strongly encouraged to make a report soon after the incident in question to maximize the College's ability to investigate and reach a finding.

#### **1. Confidential Employees**

Designated Confidential Employees at the College are available for consultation regarding reports of Sex Discrimination or other offenses. A Confidential Employee will not disclose or otherwise report information received by them to any other office or person, including the Title IX Coordinator. As a result, sharing information with a Confidential Employee will not lead to a College response or investigation.

To enable Complainants to access support and resources without filing a complaint, the College has a list of counselors and other employees who are designated as [Confidential Employees](#). A Confidential Employee will provide the Complainant with the Title IX Coordinator's contact information, information on how to file a complaint, inform the Complainant that the Title IX Coordinator may be able to offer supportive measures, and offer resources without any obligation to report unless a Complainant has requested the Confidential Employee to share the information with the Title IX Coordinator.

## **D. How to Report**

Any person may report Sex Discrimination, whether the individual reporting is the person alleged to have experienced the conduct. Upon submitting a report of Sex Discrimination, the Title IX Office will ask for the following information, if known:

- Name of Complainant
- Complainant's role, if any, within the College (student, employee, other)
- Name of Respondent
- Respondent's role within the College
- Date of the incident
- Location of the incident
- Time of the incident
- Nature of the conduct (provide specific details)
- Names of any witnesses
- Date of previous report (if any)
- To whom any previous report was made (if any)

## **V. Procedure for Handling Reports and Complaints**

### **A. Receipt of Report of Sex Discrimination**

Upon receipt of a report of Sex Discrimination, the Title IX Coordinator or Deputy Coordinator or their designee will offer supportive measures and other resources and conduct an initial evaluation of the report.

#### **1. Offer of Supportive Measures**

Upon notice of an report of Sex Discrimination, the Title IX Coordinator or a Deputy Title Coordinator or their designee will promptly contact and inform the Complainant:

- of the availability of supportive measures, including that supportive measures are available with or without filing a formal Complaint.
- of the availability of confidential counseling resources both on and off campus.
- how to file a formal Complaint.
- that, if the reported conduct could be a crime, the Complainant has the right but not the obligation to file a police report, and that if there is a police investigation, the Title IX Coordinator will coordinate with law enforcement; and
- of the importance of preserving evidence and identification and location of witnesses.

If on the face of the initial report, the Title IX Coordinator determines that the conduct alleged does not fall within the scope of Title IX, the Title IX Coordinator may also inform

the Complainant that the matter may be referred to another College process. If the matter is referred, the Complainant will still receive an offer of appropriate and reasonable Supportive Measures.

Supportive Measures are non-disciplinary, non-punitive individualized services offered to both Complainants and Respondents and designed to restore or preserve equal access to the education program or activity without unreasonably burdening either party. Such measures should also be designed to protect the safety of the parties and the College community while deterring Sex Discrimination.

Supportive Measures will be different for every matter and will be based on an individualized assessment. The Title IX Coordinator or designee will consider a party's request for a particular supportive measure, however, the final decision as to whether to implement and what time of supportive measures to implement rests with the College. Supportive measures are available with or without filing a formal complaint. During the investigative and resolution process, the College may in its discretion reassess and modify supportive measures previously implemented for either party.

The College will maintain the confidentiality of the supportive measures provided to the Complainant or Respondent to the extent that maintaining such confidentiality would not impair the College's ability to provide the supportive measures.

Supportive measures may include, but are not limited to:

- counseling,
- extensions of deadlines or other course-related adjustments,
- modifications of work or class schedules,
- campus escort services,
- increased security and monitoring of certain areas of the campus, and other similar measures,
- restrictions on contact applied to one or more parties,
- leaves of absence,
- changes in class, work, housing, or extracurricular or any other activity,
- training and education programs related to sex-based harassment.

Violations of no contact orders or other restrictions may be addressed through the student or employee conduct processes or added as additional misconduct allegations to a pending Complaint under this Policy.

Any party who seeks to modify or reverse the College's decision concerning supportive measures should submit a request in writing to the Title IX Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will review the request, and determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the Title IX

regulatory definition of supportive measures. The College will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances change materially. The College strives to render decisions on supportive measures within seven business days of receiving a request and will provide a written determination to the impacted parties.

## **2. Privacy and Confidentiality**

The College will make reasonable and appropriate efforts to preserve an individual's privacy and to protect the confidentiality of information. Due to federal and state laws related to reporting, the College cannot guarantee confidentiality related to incidents of Sex Discrimination except where those reports are privileged communications to Confidential Employees or other individuals who communication with, is privileged, such as an attorney, physician, or psychologist. Information shared with individuals other than Confidential Employees is not legally protected from being disclosed.

That being said, the College takes requests for information to be kept confidential seriously, to the extent it is able to do so while at the same time fulfilling its responsibility to provide a safe and nondiscriminatory environment for all students, employees, and the College community. Whether or not the Complainant requests confidentiality, the College will not disclose personally identifiable information obtained in connection with a Title IX reported event except as necessary to carry out its obligations under Title IX and this procedure or as may be required by FERPA or any other law.

## **3. Interim Measures**

### **a. Emergency Removal**

Based on an report of Sex Discrimination, the Title IX Coordinator, in consultation with the Threat Assessment Team or others as appropriate, may undertake an individualized safety and risk analysis to determine whether the allegations indicate the Respondent poses an imminent and serious threat to the physical health or safety of any student or other individual arising from the allegations. If the College determines removal is appropriate, the Respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal.

### **b. Administrative Leave of an Employee Respondent**

The College may place an employee Respondent on administrative leave after notice of a report of Sex Discrimination during the pendency of the grievance process.

## **B. Filing a Formal Complaint**

A Formal Complaint provides notice to CMC that the Complainant would like to initiate an investigation or other appropriate resolution procedures. Formal Complaints of Sex Discrimination may be made in one of two ways:

### **1. Complainant Submits a Formal Complaint**

A Complainant may submit a formal complaint in writing or verbally to the Title IX Coordinator or to any member of the Title IX Team or by submitting the [Report a Title IX Complaint](#) form and requesting the College investigate the allegation of Sex Discrimination.

### **2. Title IX Coordinator Submits a Formal Complaint**

The Title IX Coordinator may submit a formal complaint after considering various enumerated factors<sup>21</sup> and determining that the conduct presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents the College from ensuring equal access on the basis of sex to its education programs or activities. If deemed necessary, the Title IX Coordinator may consult with appropriate College employees, and/or conduct a violence risk assessment to aid their determination whether to initiate a Complaint.

When the Title IX Coordinator initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this procedure.

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<sup>21</sup> The factors that a Title IX Coordinator should consider include:

- i. The Complainant's request to proceed with initiation of a complaint.
- ii. The Complainant's reasonable safety concerns regarding initiation of a complaint.
- iii. The risk that additional acts of Sex Discrimination, including whether the discrimination would occur if a complaint were not initiated.
- iv. The severity of the alleged Sex Discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence.
- v. The age and relationship of the parties, including whether the Respondent is an employee of the recipient.
- vi. The scope of the alleged Sex Discrimination, including information suggesting a pattern, ongoing Sex Discrimination, or Sex Discrimination alleged to have impacted multiple individuals.
- vii. The availability of evidence to assist a decisionmaker in determining whether Sex Discrimination occurred; and
- viii. Whether the recipient could end the alleged Sex Discrimination and prevent its recurrence without initiating the College's grievance procedures.



## **C. Receipt of a Formal Complaint of Sex Discrimination**

### **1. Notice of Allegations**

Upon initiation of the college's grievance procedures, the College will provide a notice of allegations to the known Parties with sufficient time to respond and prepare for any investigative interviews. The notice of allegation will include the following information:

- A copy of or link to the College's Title IX Procedure and Informal Resolution process.
- A description of the allegations which includes sufficient information known at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident, the conduct allegedly constituting Sex Discrimination, and the date(s) and location(s) of the alleged incident(s).
- A statement that retaliation is prohibited.
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence.
- A statement that the Parties have an opportunity to provide relevant and not otherwise impermissible evidence to the Title IX Coordinator or designated investigator who are trained and shall be impartial.
- A statement that any factual findings will be subject to the preponderance of the evidence standard of proof.
- A statement that the Respondent is presumed not responsible for the alleged Sex Discrimination or Sex-Based Harassment until a determination is made at the conclusion of the grievance procedures.
- A statement that the Parties may have an advisor of their choice, who may be but is not required to be an attorney, to accompany the party to any meeting or proceeding.
- A statement that the College prohibits knowingly making false statements or knowingly submitting false information during the grievance procedure.
- An offer to meet with either Party prior to any initial interview to answer questions about the process.
- Provide notice of the availability of Supportive Measures.

### **2. Continuing Notice Requirement**

If, during an investigation, the College decides to investigate additional allegations of Sex Discrimination by the Complainant against the Respondent that are not included in the notice provided or that are included in a complaint that is consolidated, the College will notify the Parties of the additional allegations.

## **D. Rights and Responsibilities of Parties and Witnesses**

During an Investigation under this Title IX Procedure, the Parties and Witnesses have the following responsibilities and rights.

### **1. Responsibilities of the Parties and Witnesses**

- a. The responsibility to be truthful, to cooperate with the process, and to follow the directions of college staff and agents responsible for administering this procedure.
- b. The responsibility not to retaliate against or intimidate any individual who has reported Sex Discrimination or who has participated as a Party or Witness in the process; and
- c. The responsibility to keep private (by not disseminating beyond advisors, if applicable) documents, materials, and information received from the College during this process.

### **2. Rights of all Parties**

- a. The right to be treated equitably and receive the same equitable access to Supportive Measures.
- b. The right to be protected from retaliation.
- c. The right to exercise First Amendment rights and not be subject to investigation for retaliation for the exercise of such rights.
- d. The right to have each phase of the Title IX Procedure completed within a reasonably prompt timeframe.
- e. The right to receive a Notice of Allegations that provides sufficient detail about the allegations and the applicable College policies for the Respondent to be able to respond, and for both Parties to understand the scope of the Investigation.
- f. The right to receive and appeal any Notice of Dismissal.
- g. The right to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.
- h. The right to have persons other than the advisor of the parties' choice present during any meeting or proceeding.

- i. The right to receive an Investigative Report that fairly summarizes relevant evidence, in electronic format or hard copy, with a reasonably opportunity for the Parties to respond.
- j. Upon the request of any party, an equal opportunity to access the relevant and not otherwise impermissible evidence.
- k. The right to receive a Written Determination Regarding Responsibility (if any).
- l. The right to appeal the Written Determination Regarding Responsibility to a neutral Appeal Officer.
- m. The right to receive a Notice of Outcome of Appeal.

### **3. Rights of the Respondent**

- a. The right not to have any disciplinary Sanction imposed before a finding of responsibility in accordance with this Title IX Procedure.
- b. The right to be presumed not responsible for the alleged Sex Discrimination until a determination regarding responsibility is made at the conclusion of the process.

### **E. Initial Evaluation of Formal Complaint**

The Title IX Coordinator will conduct an initial evaluation, typically within 10 business days of receiving notice of a report alleging Sex Discrimination. During the initial evaluation, the Title IX Coordinator will typically do the following:

- Determine whether the College has jurisdiction over the reported conduct, as defined in this procedure and under Title IX. If the conduct is not within the College's Title IX jurisdiction, the matter is typically dismissed from this process consistent with this procedure. If applicable, the conduct will be referred to the appropriate College office for resolution.
- Offer and coordinate supportive measures to the parties, as applicable.
- Notify the parties, or the person who reported the allegation(s), of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below.

## **F. Dismissal**

1. The College must dismiss a Complaint if the alleged conduct:
  - a. would not constitute sexual harassment as defined in the regulations,
  - b. did not occur in the College's education program or activity; or
  - c. did not occur against a person in the United States.
- Conduct alleged to contribute to a sex-based hostile environment within the College's education programs or activities but that occurred outside the College's education programs or activities or outside the United States may be addressed under this procedure.
2. The College may dismiss a Complaint, at any time, if one or more of the following grounds are met:
  - a. The College is unable to identify the Respondent after taking reasonable steps to do so,
  - b. The College no longer enrolls or employs the Respondent.
  - c. A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Title IX Coordinator declines to initiate a Complaint, and the College determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute Sex Discrimination under Title IX even if proven: or
  - d. The College determines the conduct alleged in the Complaint, even if proven, would not constitute Sex Discrimination under Title IX. Before dismissing the complaint, the College will make reasonable efforts to clarify the allegations with the Complainant would not constitute a Policy violation, if proven.

Upon dismissal, the College will promptly notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, the College will also notify the Respondent of the basis for the dismissal.

## **G. Appeal of Dismissal**

The College will notify the Parties that a dismissal may be appealed and will provide the Parties with an opportunity to appeal the dismissal of a complaint. The appeal request should specify at least one of the grounds listed below and provide any reasons or supporting evidence for why the ground is met. All requests to appeal a dismissal must be submitted to the Title IX Coordinator within three business days of the notification of the dismissal.

1. Dismissals may be appealed on the following grounds:
  - a. Procedural irregularity that would change the outcome.
  - b. New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
  - c. The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.
  
2. If the dismissal is appealed, the College will:
  - Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent.
  - Implement appeal procedures equally for the parties.
  - Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint.
  - Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations.
  - Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
  - Notify the parties of the result of the appeal and the rationale for the result.
  
3. If the Request for Appeal does not provide information that meets the grounds in this procedure, the Dismissal Appeal Officer will deny the request and notify the Parties and the Title IX Coordinator of the denial and the rationale.
  
4. If any of the asserted grounds in the appeal satisfy the grounds described in this procedure, then the Dismissal Appeal Officer will notify all Parties and the Title IX Coordinator of their decision in writing. The effect will be to reinstate the Complaint.
  
5. In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Officer has seven business days to review and decide on the appeal, though extensions can be granted at the Title IX Coordinator's discretion, and the Parties will be notified of any extension.

## H. Process Following Dismissal

When a complaint is dismissed, the College will:

- Offer supportive measures to the Complainant as appropriate.
- If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that Sex Discrimination does not continue or recur within the College's education program or activity.

## VI. Informal Resolution

In lieu of resolving a complaint through the College's Title IX grievance procedures, the Parties may elect to participate in an informal resolution process.

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator at any time prior to a final determination, or the Title IX Coordinator may offer the option to the Parties, in writing. The College will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

Not all situations are appropriate for Informal Resolution regardless of the Parties desires. Situations involving serious violence, dangerous patterns of sexual misconduct, or significant ongoing threat to the community should generally not be resolved by Informal Resolution, unless a Respondent accepts responsibility. The Title IX Coordinator or designee has the authority to determine whether to permit Informal Resolution consistent with this procedure and applicable federal or state legal requirements.

Before initiation of an Informal Resolution process, the College will explain to the Parties in writing:

- A description of the allegations.
- The requirements of the Informal Resolution process.
- That any party has the right to withdraw from the Informal Resolution process and to initiate or resume the College's Resolution Process.
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will preclude the Parties from initiating or resuming the Resolution Process arising from the same allegations.
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties.

- What information the College will maintain, and whether and how the College could disclose such information for use in its Title IX grievance procedures if such procedures are initiated, ongoing, or resumed.

**A.** The College offers four categories of Informal Resolution:

- 1. Supportive Resolution.** When the Title IX Coordinator or designee can resolve the matter by providing supportive measures only designed to remedy the situation and restore or preserve the Complainant's access to the College's education program and activity.
- 2. Educational Conversation.** When the Title IX Coordinator or designee can resolve the matter by having a conversation with the Respondent to discuss the Complainant's concerns and college's expectations or can accompany the Complainant in their desire to confront the conduct. Such a conversation is non-disciplinary.
- 3. Accepted Responsibility.** When the Respondent is willing to accept responsibility for violating all alleged policy violations, and the Complainant, Respondent, and College are agreeable to the resolution terms.
- 4. Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism, which could include, but is not limited to, mediation, restorative practices, facilitated dialogue, and educational programming and training.

**B.** The individual facilitating an Informal Resolution must be appropriately trained and cannot be the Investigator, Decisionmaker, Appeal Decisionmaker or otherwise have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

It is not necessary to pursue Informal Resolution before pursuing an Administrative Resolution Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Administrative Resolution Process.

If an investigation is already underway, the Title IX Coordinator has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

## **VII. Investigation**

### **A. Resolution Timeline**

It is the College's responsibility to conduct an adequate, reliable, and impartial investigation of complaints alleging Sex Discrimination. The College will make a good faith effort to complete the Resolution Process within an average of 60-90 days, exclusive of any appeals, which the Title IX Coordinator can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the investigation and resolution process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process. Some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, the College reserves the right to continue without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

The College may undertake a short delay in its investigation if circumstances justify one, such as a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties or witnesses, or health conditions of any Party or witness. The College will promptly resume its Resolution Process as soon as feasible. During any delay, the College will implement and maintain supportive measures for the Parties as deemed appropriate.

### **B. Ensuring Impartiality**

Any individual materially involved in the administration of the Resolution Process, including the Title IX Coordinator, Investigator, and Decisionmaker, may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s), Decisionmaker(s), and Appeal Decisionmakers for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator or designee will determine whether the concern is reasonable and supportable. If so, another Title IX Team member or designee will be assigned to assess and remedy the impact of the bias or conflict. Any concerns involving a conflict of interest or bias by the Title IX Coordinator should be raised with the Vice President of Student Affairs.



The Resolution Process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, including evidence that supports whether the Respondent engaged in a policy or procedure violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence.

### **C. Investigator Appointment**

The Title IX Coordinator will assign a trained and impartial investigator, who could be internal or external to the College, to investigate a complaint of Sex Discrimination.

### **D. Investigative Outline**

The Investigator will typically take the following steps, if not already completed and not necessarily in this order:

- Determine the identity and contact information of the Complainant.
- Identify all offenses implicated by the alleged misconduct and notify the Complainant and Respondent of all specific policies implicated.
- Assist the Title IX Coordinator, if needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy violation.
- Work with the Title IX Coordinator, as necessary, to prepare the initial Notice of Investigation and Allegations (NOIA). The NOIA may be amended with any additional or dismissed allegations.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses.
- When participation of a party is expected, provide that party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.
- Provide the parties with the same opportunities to have persons other than the advisor of the parties' choice present during any meeting or proceeding.
- Interview the Complainant and the Respondent and conduct any necessary follow-up interviews with each.
- Interview all available, relevant witnesses and conduct follow-up interviews, as necessary.
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary of the relevant evidence from their respective interview.

- Allow each party the opportunity to suggest witnesses and questions, including any follow-up questions, they wish the Investigator(s) to ask of another party and/or witnesses. Document which questions were asked with a rationale for any changes or omissions in the investigation report.
- When possible, complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide the Parties with regular status updates throughout the investigation.

#### **E. Witness Role and Participation in the Investigation**

Employees (not including Complainant and Respondent) are required to cooperate with and participate in the College's investigation and Resolution Process. Student witnesses and witnesses from outside the College community cannot be required to participate but are encouraged to cooperate with the College's investigations and to share what they know about a Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, Webex), or by telephone. The College will take appropriate steps to ensure the security and privacy of remote interviews.

#### **F. Interview Recording**

All interviews done in connection with an investigation and resolution of a Title IX Complaint are recorded. All witnesses who participate in an interview should be made aware of the audio and/or video recording. No unauthorized audio or video recording of any kind is permitted during investigation meetings. A summary of the interview will be provided to each witness for their review.

#### **G. Evidentiary Considerations**

The College applies the preponderance of evidence standard of proof to determine whether Sex Discrimination occurred.

The Investigator and the Decisionmaker will only consider evidence that is deemed relevant and not otherwise impermissible.

Relevant Evidence is that which may aid in determining whether the allegation occurred or whether the behavior constitutes a violation of Policy.

Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or, 2). is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent.

Evidence of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that Sex Discrimination occurred.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process.

## **VIII. Administrative Resolution Process**

### **A. Overview of Process**

This Administrative Resolution Process is used for all Complaints of Sex Discrimination, Sex-Based Harassment, and Retaliation. The Administrative Resolution Process consists of a hand-off of the investigation report and all relevant evidence from the Investigator to the Decisionmaker to make a finding and determine sanctions, if applicable.

At the discretion of Title IX Coordinator, the assigned Decisionmaker will be an individual or a panel of trained individuals either internal or external to the College. The Decisionmaker may recommend dismissal to the Title IX Coordinator if, after reviewing the file, they believe any ground for dismissal exists.

The Administrative Resolution Process takes approximately 30 business days to complete, beginning with the Decisionmaker's receipt of the draft Investigation Report. The Parties will be regularly updated on the timing and any significant deviation from this average timeline.

### **B. Questioning Parties and Witnesses**

The following steps shall be utilized to aid the Decisionmaker in evaluating the allegation(s), accessing credibility, and determining whether Sex Discrimination occurred.

1. The Investigator will provide the draft Investigation Report to the Decisionmaker and the Parties for review.

2. The parties shall be allowed five business days from receipt of the draft Investigation Report to provide the Decisionmaker proposed questions that the party wants asked of any party or any witness.
3. The Decisionmaker will review the parties' proposed questions and ensure all questions are relevant and permissible.
4. The Decisionmaker will provide a written explanation of any question deemed not relevant or impermissible.
5. If the Decisionmaker determines any question is unclear or harassing, the Decisionmaker will provide the party an opportunity to clarify or revise the question. If the question is sufficiently clarified or revised, the question shall be asked of the Party or witness.
6. The Decisionmaker will provide any proposed follow-up questions from the Parties to the Investigator.
7. The Decisionmaker may also provide the Investigator with their own relevant and permissible questions to ask a party or a witness in a follow-up meeting.
8. To the extent credibility is in dispute and relevant to one or more of the allegations, the Decisionmaker's questions may also explore credibility.
9. The Investigator will then hold individual follow-up meetings with the Parties and any witnesses to ask the questions posed by the Decisionmaker and Parties that have been deemed relevant and permissible, including questions intended to assess credibility. These meetings will be recorded.
10. Each party will be provided a recording or transcript of any follow-up meeting and allowed reasonable opportunity to propose follow-up questions. In such cases and if necessary, the parties shall be allowed an additional three business days from the receipt of any recording to propose follow-up questions.
11. The Investigator will then incorporate any new, relevant evidence and information obtained through the Parties' review of the Draft Investigation Report, and any follow-up meeting and questioning into a Final Investigation Report.
12. The Investigator will then provide the Final Investigation Report to the Decisionmaker, Title IX Coordinator or designee, and legal counsel for the college.

### **C. The Decisionmaker's Determination**

1. The Decisionmaker will review the Final Investigation Report and the investigation file.
2. If the record is incomplete, the Decisionmaker may direct a reopening of the investigation, or may direct or conduct any additional inquiry necessary, including follow-up meetings with the Parties or any witnesses, if needed. These meetings will be recorded.
3. The Decisionmaker will apply the preponderance of the evidence standard to make a determination on each of the allegations and, if applicable, any associated sanctions.
4. The Decisionmaker's determination process will typically take 14 business days, but this timeframe can vary based on schedules and other variables. The Parties will be notified of any delays.
5. If it is later determined that a party or witness provided false or misleading information during any part of the Title IX process, that action could be grounds for reopening a Resolution Process at any time and/or referring that information to another process for resolution.

## **IX. Sanctions**

Factors the Decisionmaker may consider when determining sanctions and responsive actions include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s).
- The Respondent's disciplinary history.
- The need for sanctions/responsive actions to bring an end to the Sex Discrimination.
- The need for sanctions/responsive actions to prevent the future recurrence of Sex Discrimination, Sex-Based Harassment, and/or retaliation.
- The need to remedy the effects of the Sex Discrimination, Sex-Based Harassment, and/or retaliation on the Complainant and the community.
- The impact on the Parties.
- The Respondent's acceptance of responsibility.
- Any other information deemed relevant by the Decision-maker(s).

The sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

The sanctions described in this procedure are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

### **A. Student Sanctions**

The following are the common sanctions that may be imposed for any student who is determined to have engaged in Sex Discrimination, Sex-Based Harassment, and/or retaliation:

- **Reprimand:** 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.
- **Required Counseling:** A mandate to meet with and engage in either College-sponsored or external counseling to better comprehend the misconduct and its effects.
- **Restrictions:** A student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, participation in certain activities or extracurriculars, study abroad, or holding leadership roles in student organizations.
- **Probation:** An official sanction for violation of College policy, providing for more severe disciplinary sanctions in the event that the student 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 extracurricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- **Suspension:** Separation from the College, or one or more of its facilities, for a defined period of time, typically not to exceed two years, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension, on successfully applying for readmission, or upon a general condition that the student is eligible to return if the College determines it is appropriate to reenroll the student. The student is typically required to vacate the College property within 24 hours of notification of the action, though this deadline may be extended at the discretion of the Title IX Coordinator or other appropriate official. During a college-wide suspension, the student is banned from College property, functions, events, and activities unless they receive prior written approval from an appropriate College official. This sanction may be enforced with a trespass action, as necessary. This sanction may be noted within the student's disciplinary record per College policy and/or state law.

- **Expulsion:** Permanent separation from the College. The student is banned from College property, and the student's presence at any College-sponsored activity or event is prohibited. This action may be enforced with a trespass action, as necessary. This sanction may be noted within the student's disciplinary record per College policy and/or state law.
- **Deny Participation in Commencement Activities:** The College may deny a student participation in commencement activities as a sanction if the student is found responsible for violating Policy.
- **Other Actions:** In addition to, or in place of, the above sanctions, the College may assign any other sanctions as deemed appropriate.

## **B. Corrective and Disciplinary Actions for Employees**

Potential corrective and disciplinary actions for any employee who is determined to have engaged in Sex Discrimination, Sex-Based Harassment and/or retaliation include:

- Verbal or Written Warning
- Performance Improvement Plan
- Enhanced Supervision, Observation, or Review
- Required Counseling
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade/Ability to Transfer
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Shift or schedule adjustments
- Reassignment
- Assignment to a New Supervisor
- Ineligible for transfer or promotion
- Suspension/Administrative Leave with or without Pay
- Termination
- Other Actions: In addition to or in place of the above sanctions/responsive actions, the College may institute any other corrective or disciplinary actions as deemed appropriate.

## **X. Notice of Outcome**

Within 14 business days of the conclusion of the Resolution Process, the Title IX Coordinator or Decisionmaker will provide the Parties with a written notice that specifies the finding for each alleged Policy violation, all applicable sanctions that the College is permitted to share pursuant to state or federal law, and an explanation, written by the Decisionmaker, supporting the findings to the extent the college is permitted to share under federal or state law.

The notice will also provide the Parties' rights to appeal and when the determination is considered final if no party appeals.

## **XI. Withdrawal or Resignation Before Complaint Resolution**

### **A. Students**

Should a student Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from the College, the Resolution Process may continue, or the Administrator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, the College will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged Sex Discrimination, sex-based harassment and/or retaliation.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, the College will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Sex Discrimination, sex-based harassment, and/or retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to the College in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Title IX Coordinator has discretion to dismiss the Complaint. The Registrar and Human Resources may be notified, accordingly.

If the student Respondent takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely. If found in violation, that student is not permitted to return to the College unless and until all sanctions, if any, have been satisfied.



## **B. Employees**

Should an employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an employee Respondent leaves their employment with the College with unresolved allegations pending, the Resolution Process may continue, or the Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, the College may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged Sex Discrimination, sex-based harassment, and/or retaliation. Upon a Respondent employee resigning, a College may still complete its investigation and take reasonable measures under any other applicable laws and College policy.

When an employee resigns and the Complaint is dismissed, the employee may not return to the College in any capacity. The Registrar's Office and Human Resources will be notified, accordingly, and a note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with the College. The records retained by the College will reflect that status.

## **XII. Appeal of the Determination**

The Title IX Coordinator will designate an Appeal Decisionmaker, either an internal or external individual, to hear the appeal. No Appeal Decisionmaker will have been previously involved in the Resolution Process for the Complaint, including in any supportive measure challenge or dismissal appeal that may have been decided earlier in the process.

### **A. Appeal Grounds**

Appeals are limited to the following grounds:

1. A procedural irregularity that would change the outcome.
2. New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility was made.
3. The Title IX Coordinator, Investigator, or Decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that would change the outcome.
4. For sanctions of suspension, expulsion, or termination, the Final Determination is substantially contrary to the weight of the evidence in the record.
5. For sanctions of suspension, expulsion, or termination, the sanctions fall outside the range of sanctions designated for this offense, considering the cumulative conduct/disciplinary record of the Respondent.

## **B. Request for Appeal**

Any party may submit a written request for appeal (“Request for Appeal”) to the Title IX Coordinator within 5 business days of the delivery of the Notice of Outcome.

The Request for Appeal will be forwarded to the Appeal Decisionmaker for consideration to determine if the request meets the grounds for appeal. If the Request for Appeal does not provide information that meets the grounds in this procedure, the request will be denied by the Appeal Decisionmaker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the information in the Request for Appeal meets the grounds in this procedure, then the Appeal Decisionmaker will notify all Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator and/or the original Decisionmaker.

All other Parties and their Advisors, the Title IX Coordinator and, when appropriate, the Investigator and/or the Decisionmaker will be provided a copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decisionmaker will forward all responses, if any, to all Parties for review and comment.

No party may submit any new Requests for Appeal after this time period. The Appeal Decisionmaker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decisionmaker, who will promptly render a decision.

## **C. Appeal Determination Process**

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decisionmaker will deliberate and reach a decision as soon as is practicable, typically within 10 business days of receiving the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction and responsive action only if there is a compelling justification to do so. All decisions apply the preponderance of the evidence standard of proof.

An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Decisionmaker merely because they disagree with the finding and/or sanction.

The Appeal Decisionmaker may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed.

#### **D. Appeal Outcome**

An appeal may be granted or denied. Appeals that are granted should be remanded (or partially remanded) to the original Investigator and/or Decisionmaker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator and/or Decisionmaker or the Title IX Coordinator (as in cases of bias), the Appeal Decisionmaker may order a new investigation and/or a new determination with new individuals serving in the Investigator and Decisionmaker roles.

A Notice of Appeal Outcome letter (“Appeal Outcome”) will be sent to all Parties simultaneously, or without significant time delay between notifications. The Appeal Outcome will specify the finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result which the College is permitted to share according to federal or state law, and the rationale supporting the essential findings to the extent the College is permitted to share under federal or state law.

Once mailed, emailed, and/or received in person, the Appeal Outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted. If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the available appeal grounds.

#### **E. Sanction Status During the Appeal**

Any sanctions imposed because of the determination are stayed or not implemented during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

#### **F. Long-Term Remedies and Measures**

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the College community that are intended to stop the Sex Discrimination, Sex-Based Harassment, and/or retaliation, remedy the effects, and prevent recurrence.

These remedies and measures may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term supportive measures may also be provided to the Parties even if no Policy violation is found. When no Policy violation is found, the Title IX Coordinator will address any remedies the College owes the Respondent to ensure no effective denial of educational access. The College will maintain the confidentiality of any long-term remedies or measures, provided confidentiality does not impair the College's ability to provide these services.

### **XIII. Failure to Comply with Sanctions, Responsive Measures, and/or Informal Resolution Terms**

All Respondents are expected to comply with the assigned sanctions, responsive measures, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decisionmaker, including the Appeal Panel or Decisionmaker or the Informal Resolution agreement.

Failure to abide by the sanction(s) and measures imposed by the date specified, whether by refusal, neglect, or for any other reason, may result in additional sanctions and/or actions, including suspension, expulsion, and/or termination from the College.

Supervisors are expected to enforce the completion of sanctions and responsive actions for their employees.

## **XIV. Recordkeeping**

For a period of at least seven years following the conclusion of the Resolution Process, the College will maintain records of:

- 1) Each Sex Discrimination, Sex-Based Harassment, and retaliation resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation.
- 2) Any disciplinary sanctions imposed on the Respondent.
- 3) Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to the College's education program or activity.
- 4) Any appeal and the result therefrom.
- 5) Any Informal Resolution and the result therefrom.
- 6) All materials used to provide training to the Title IX Coordinator and designees, Investigators, Decisionmakers, Appeal Decisionmakers, Informal Resolution Facilitators, and any person who is responsible for implementing the College Resolution Process, or who has the authority to modify or terminate supportive measures. The College will make these training materials available for review upon request.
- 7) All materials used to train all employees consistent with the requirements in the Title IX Regulations.
- 8) The College will also maintain any and all records in accordance with federal and state laws.

## **XV. Accommodations and Support During the Resolution Process**

### **A. Disability Accommodations**

The College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College's Resolution Process.

Anyone needing such accommodations or support should contact the Title IX Coordinator or designee, who will work with access coordinators as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

## B. Other Support

The College will also address reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout the Resolution Process
- Other support as deemed reasonable and necessary to facilitate participation in the Resolution Process

## XVI. Definitions

The following definitions apply to this procedure.

- A. Advisor.** Any person chosen by a party, or appointed by the College, may accompany the party to all meetings related to the Resolution Process and advise the party on that process.
- B. Appeal Decisionmaker.** The person or panel who accepts or rejects a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s) accordingly.
- C. Complainant.** A student or employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination, Sex -Based Harassment, or Retaliation under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination, Sex-Based Harassment, Retaliation, or Other Prohibited Conduct under the Policy and who was participating or attempting to participate in the College's education program or activity at the time of the alleged Sex Discrimination, Sex-Based Harassment, Retaliation, or Other Prohibited Conduct.
- D. Complaint.** An oral or written request to the College that can objectively be understood as a request for the College to investigate and make a determination about the alleged Policy violation(s).
- E. Confidential Employee.**
  1. An employee whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
  2. An employee whom the College has designated as confidential under this Policy for the purpose of providing services to persons related to Sex Discrimination, Sex-Based Harassment, and Retaliation. If the employee also has a duty not

associated with providing those services, the employee's confidential status only applies with respect to information received about Sex Discrimination, Sex-Based Harassment and Retaliation in connection with providing those services; or

3. An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about Sex Discrimination, Sex-Based Harassment, and Retaliation. The employee's confidential status only applies with respect to information received while conducting the study.
- F. Decisionmaker.** The person or panel who reviews evidence, determines relevance, and makes the Final Determination of whether Policy has been violated and/or assigns sanctions.
- G. Education Program or Activity.** Locations, events, or circumstances where the College exercises substantial control over the context in which the Sex Discrimination, Sex-Based Harassment, or retaliation occurs and also includes any building owned or controlled by a student organization that the College officially recognizes.
- H. Employee.** A person employed by The College either full- or part-time, including student employees when acting within the scope of their employment.
- I. Final Determination.** A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.
- J. Finding.** A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a "finding of fact").
- K. Informal Resolution.** A resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a Final Determination in the Resolution Process.
- L. Investigation Report.** The Investigator's summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- M. Investigator.** The person(s) authorized by the College to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.
- N. Knowledge.** When the College receives Notice of conduct that reasonably may constitute Sex Discrimination and Retaliation in its Education Program or Activity.
- O. Notice.** When an employee, student, or third party informs the Title IX Coordinator of the alleged occurrence of Sex Discrimination or Retaliation.
- P. Parties.** The Complainant(s) and Respondent(s), collectively.

- Q. Pregnancy or Related Conditions.** Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- R. Relevant Evidence.** Evidence that may aid a Decisionmaker in determining whether the alleged Sex Discrimination or Retaliation occurred, or in determining the credibility of the Parties or witnesses.
- S. Remedies.** Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to the College's Education Program and Activity.
- T. Resolution Process.** The investigation and resolution of allegations of Sex Discrimination under this Policy, including Informal Resolution and Administrative Resolution Process.
- U. Respondent.** A person who is alleged to have engaged in conduct that could constitute Sex Discrimination or Retaliation for engaging in a protected activity under this Policy.
- V. Sanction.** A consequence imposed on a Respondent who is found to have violated this Policy.
- W. Sex.** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- X. Student.** Any person who has gained admission.
- Y. Title IX Coordinator.** At least one official designated by the College to ensure ultimate oversight of compliance with Title IX and the College's Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the Coordinator for specific tasks.
- Z. Title IX Team.** The Title IX Coordinator, any deputy coordinators, and any trained designee.