

Administrative Procedure Manual:

Prohibition of Sex Discrimination, Sexual Harassment, Sexual Violence, and Relationship Violence

- I. **Introduction:** These administrative procedures derive from COD Board Policy No. 3.11, which prohibits Sex Discrimination, Sexual Harassment, Sexual Violence and Relationship Violence (as defined herein), establishes the authority and duties of the Title IX Coordinator, includes summaries of the reporting and complaint resolution procedures, and identifies resources and protections for those involved in complaints of Prohibited Conduct.
 - A. **Purpose:** The College does not discriminate on the basis of sex in the education programs and activities it operates and is committed to maintaining a safe and healthy educational and working environment that is free from discrimination and harassment on the basis of sex, sexual orientation, gender identity, and gender expression (“Sex Discrimination”), and free from Sexual Violence (to include sexual assault) and Relationship Violence (to include domestic violence, dating violence and stalking). The College prohibits Sex Discrimination, Sexual Violence and Relationship Violence (hereinafter collectively referred to as “Prohibited Conduct”). The purpose of these procedures is to implement the College’s Prohibition of Sex Discrimination, Sexual Harassment, Sexual Violence and Relationship Violence Policy (Board Policy No. 3.11).
 - B. **Jurisdiction:** These procedures apply to Prohibited Conduct occurring either on or off campus property where one of the following conditions is met:
 1. The conduct occurred in connection with an officially recognized education program or activity;
 2. The conduct occurred at a location, event or circumstance over which the College exercised substantial control over both the Respondent and the context in which the conduct occurred;
 3. The conduct occurred on a property owned or controlled by a student organization that is officially recognized by the College;
 4. The conduct has the effect of creating a hostile learning or working environment for a member of the College community.
 - C. **Scope:** These procedures apply to prohibited conduct falling within the College jurisdiction, between the following parties:
 1. Student Survivor/Victim and student Respondent;
 2. Student Survivor/Victim and employee Respondent;
 3. Student Survivor/Victim and third-party Respondent;
 4. Employee Survivor/Victim and student Respondent;
 5. Employee Survivor/Victim and employee Respondent;
 6. Employee Survivor/Victim and third-party Respondent;
 7. Third party Survivor/Victim and student Respondent;
 8. Third party Survivor/Victim and employee Respondent.
 - D. **Administration:** The College’s Title IX Coordinator(s) shall be responsible for implementing these procedures consistent with Board policy and relevant state and federal laws and ensuring that all those involved in the (1) the receipt of reports of Prohibited Conduct; (2) the referral or provision of services related to Prohibited Conduct; or (3) the College’s investigation and complaint resolution procedures for reports of Prohibited Conduct receive

required training. See Board Policy Number 3.11 for a full list of Title IX Coordinator Responsibilities.

E. **Definitions.** For purposes of this Policy, the following terms shall have the meanings set forth below:

1. **Prohibited Conduct:** Prohibited Conduct includes the following conduct, as further defined herein: (1) Discrimination On The Basis Of Sex; (2) Sexual Harassment; (3) Dating Violence; (4) Domestic Violence; (5) Sexual Assault; (6) Sexual Violence; and (7) Stalking.

- i. **Discrimination on The Basis Of Sex.** Discrimination on The Basis Of Sex means an individual's exclusion from participation in or denial of the benefits of any educational program or activity on the basis of sex.
- ii. **Sexual Harassment.** Sexual harassment includes conduct on the basis of sex that satisfies one or more of the following: (1) an Employee conditioning the provision of an aid, service or benefit of the College on an individual's participation in unwelcome sexual conduct; (2) 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; and/or (3) Sexual Assault, Dating Violence, Domestic Violence, or Stalking as defined herein.
- iii. **Dating Violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Survivor/Victim based on the reporting party's statements, with consideration given to the length of the relationship, type of the relationship, and the frequency of interaction between persons in the relationship. Dating Violence includes, but is not limited to sexual or physical abuse or threat of such abuse, but does not include acts covered as Domestic Violence (defined below).
- iv. **Domestic Violence.** A felony or misdemeanor crime of violence committed by a: (1) current or former spouse or intimate partner of the victim; (2) person with whom the victim shares a child in common; (3) person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (4) person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or (5) any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- v. **Sexual Assault.** An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting program.
- vi. **Sexual Violence.** Physical sexual acts attempted or perpetrated against a person's will or when a person is incapable of giving consent, including without limitation rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

- vii. **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or suffer substantial emotional distress.
2. **Consent:** Consent means a freely given agreement to sexual activity, and consent may be withdrawn at any time. A lack of verbal or physical resistance, or submission resulting from the use or threat of force does not constitute consent. A person's consent to past sexual activity does not constitute consent to future sexual activity. A person's consent to sexual activity with one person does not constitute consent to sexual activity with another person. A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent under the circumstances, which includes, but is not limited to, situations where: (1) the person is incapacitated due to drug or alcohol use or influence; (2) the person is asleep or unconscious; (3) the person is underage; and/or (4) the person is incapacitated due to a mental disability.
 3. **Survivor/Victim.** The person(s) alleged to have been directly affected by the Prohibited Conduct, whether or not that person is the one who reports the conduct or files a formal complaint related to the conduct.
 4. **Respondent:** Person(s) accused of Prohibited Conduct.
 5. **Confidential Advisor.** A person who is employed or contracted by the College to provide emergency and ongoing support to student survivors of Sexual Violence with the training, duties and responsibilities described in section 20 of the Illinois Preventing Sexual Violence in Higher Education Act. The duties and responsibilities of a Confidential Advisor include, but are not limited to informing Survivor/Victims of reporting options, possible outcomes, available resources and services, and their rights and responsibilities regarding orders of protection and similar orders; providing confidential services to Survivor/Victims; and serving as a liaison between Survivor/Victims and others to secure supportive and protective measures and accommodation, or as appropriately requested by a Survivor/Victim.
 6. **Professional Counselor.** A person whose official responsibilities include providing mental health counseling to members of the College's community and who is functioning within the scope of the counselor's license or certification.
 7. **Pastoral Counselor.** A Person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor.
 8. **Amnesty.** Protection from disciplinary or punitive action for an individual making a good faith report of Prohibited Conduct for the individual's own violation of other College policies that is revealed in the course of making such a report, unless the College determines that the violation was egregious (such as placing the health and safety of others at risk).
 9. **Retaliation.** Retaliation includes, without limitation, threats, coercion, intimidation, or discrimination for the purpose of interfering with any right or privilege secured by law and this policy and any materially adverse action taken against an individual as a result of (i) the individual's participation in or assistance with the making of a good

faith report of Prohibited Conduct; (ii) participation in or cooperation with or refusal to participate in or cooperate with the investigation and/or resolution of a report of Prohibited Conduct; and/or (iii) providing or refusing to provide testimony in connection with a report of Prohibited Conduct. Retaliation should be promptly reported to the Title IX Coordinator(s). Any acts of retaliation shall be grounds for disciplinary action, independent of any disciplinary action or interim measures imposed in response to the underlying report, and shall include the same potential penalties and disciplinary measures as those listed above. Whistleblower protections may be available to those reporting a violation of this Policy, including those provided under the State Officials and Employees Ethics Act, the Whistleblower Act, and the Illinois Department of Human Rights Act. Methods for reporting Retaliation may be found on the College's website.

10. Responsible Employees: A College employee who has the authority to redress Prohibited Conduct, who has a duty to report incidents of Prohibited Conduct or other misconduct, or who a person could reasonably believe has this authority or duty. Responsible employees include College administrators, the Title IX Coordinator, College supervisors and managerial staff, faculty, campus police and coaches. The following are NOT Responsible Employees: Confidential Advisors, Professional Counselors or Pastoral Counselors.

11. Remedies: Actions taken to restore or preserve equal access to the College's education programs and activities and/or to address the effect of Prohibited Conduct on the Community as a whole.

- i. **Remedies for those directly affected by the conduct** may include, but are not limited to the following:
 - a. Supportive & Protective Measures as described herein;
 - b. Arranging for class withdrawal without penalty (both academic and financial); and
 - c. Review of any disciplinary actions taken against a Survivor/Victim to determine if there is a causal connection between the Prohibited Conduct and the misconduct that led to discipline.
- ii. **Remedies for the College Community as a whole** may include, but are not limited to:
 - a. Counseling, health, mental health and other holistic services to all students and employees affected by the Prohibited Conduct, including providing specific instruction on how to access the College's retained EAP provider (student and employee resources);
 - b. Designating an individual within the College's counseling center to be trained in issues related to Prohibited Conduct;
 - c. Classroom or department-wide measures meant to address ongoing issues of Prohibited Conduct;
 - d. Development of materials on Prohibited Conduct for campus-wide distribution to students, employees, and/or third parties;
 - e. Education and/or training related to Prohibited Conduct;

- f. Creating a committee to identify strategies for preventing and addressing Prohibited Conduct;
 - g. Conducting periodic climate surveys to identify how students and employees perceive and experience Prohibited Conduct at the College.
 - 12. **Days:** Any reference to “days” contained in these procedures shall mean business days, excluding all recognized federal and state holidays and breaks during which classes are not in session.
 - 13. **Education Program or Activity:** all academic, educational, extracurricular, athletic, and other programs of the College.
 - 14. **In Writing:** Electronic communication sent to the College issued email address and/or hard copy communication sent to the last known address on file with the College.
 - II. **Reporting Prohibited Conduct:** Anyone (student, employee, or third-party) may make a report of Prohibited Conduct, whether or not that person is the alleged Survivor/Victim, and may do so at any time following the alleged incident.
 - A. **Methods of Reporting:** In order to ensure a prompt response, including the provision of Supportive & Protective Measures, the College strongly encourages anyone reporting Prohibited Conduct to do so by contacting the College’s Title IX Coordinator(s), **ASSIA BAKER**, using any of the following methods:
 - 1. In person: **BIC 1417**
 - 2. By phone: **630/942-2491**
 - 3. By email: **titleix@cod.edu**
 - 4. By submitting an online report, which may be done anonymously (i.e., without including any identifying information) using the following URL:
 - https://cm.maxient.com/reportingform.php?CollegeofDuPage&layout_id=6
- Responsible Employees have an obligation to notify the Title IX Coordinator of any allegation of Prohibited Conduct that comes to their attention.
- B. **Confidential Resources:** To the extent that a person wishes to seek advice and assistance without alerting the College to the alleged conduct, he/she may contact one of the College’s Professional Counselors, Pastoral Counselors or Confidential Advisors listed on the College’s Title IX Webpage at: https://www.cod.edu/student_life/dean-of-students/title-ix.html
All communications with said counselors and advisors shall remain confidential except under the following circumstances: (1) the person making statements to the counselor or advisor consents to the disclosure in writing; or (2) the counselor/advisor is required by law to make a disclosure; or (3) the counselor/advisor determines that failure to disclose the communication would result in clear, imminent risk of serious physical injury or death to an individual. These counselors/advisors may also assist with requesting Supportive & Protective Measures.
 - C. **Response to Report:** Following receipt of a report of Prohibited Conduct, the Title IX Coordinator shall:
 - 1. Acknowledge receipt of the report;
 - 2. In cases where the Survivor/Victim has been identified:

- i. Provide Written Notice of Rights as set forth below; and
- ii. Contact the Survivor/Victim to request a meeting to
 - a. Discuss and offer, where appropriate, Supportive & Protective Measures;
 - b. Discuss options and explain available procedures;
 - c. Discuss issues of privacy and confidentiality;
 - d. Inquire into the Survivor/Victim's wishes;
 - e. Request additional information, if needed.

3. In all cases, consider the facts, as they have been reported, and determine whether or not

- i. an emergency removal or administrative leave (employees only) may be appropriate;
- ii. to alert Human Resources (e.g., where the Survivor/Victim or Respondent is an employee) or others;
- iii. To conduct further inquiry to discover additional facts including:
 - a. Identifying and interviewing witnesses;
 - b. Contacting and interviewing the respondent; and
 - c. Contacting and cooperating with law enforcement.

D. **Written Notice of Rights & Options:** Upon receipt of a report, the Title IX Coordinator shall send written notice to the alleged Survivor/Victim (if known) of the following and shall invite the Survivor/Victim to meet with the Title IX Coordinator to discuss these in greater detail:

1. The importance of preserving evidence that may assist in proving a crime or may be helpful in obtaining a protective order;
2. How and to whom a Formal Complaint may be made;
3. Options for notifying law enforcement including the right to decline to notify law enforcement and the right to request and receive assistance in notifying law enforcement of he/she so chooses;
4. Methods for confidential reporting;
5. A statement that the College will protect the privacy and confidentiality of the alleged Survivor/Victim, Respondent and witnesses so long as doing so would not inhibit the College's obligation to protect others, and an explanation of how maintaining confidentiality may affect the College's ability to effectively respond to the allegations;
6. A list of and links to existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, financial aid and other services available within the institution and community, and the individual's right to request and receive assistance navigating these services;
7. Contact information for the Title IX Coordinator, Confidential Advisors designated by the College, community-based sexual assault crisis centers, campus law enforcement, and local law enforcement;
8. The name, address, and telephone number of the medical facility nearest to Campus where a Survivor/Victim may receive a no-cost medical forensic exam;

9. The rights of the Survivor/Victim and responsibilities of the College regarding no-contact orders, restraining orders, orders of protection or other similar orders issued by the court or by the College;
 10. The right to request Supportive & Protective Measures whether or not the Survivor/Victim files a Formal Complaint with the College or notifies law enforcement, including a description of the range of measures available;
 11. The right to file or decline to file a Formal Complaint;
 12. A summary of the College's procedures following a report, including the investigation and hearing processes, and range of possible sanctions;
 13. A statement regarding the College's policy on Amnesty (as defined herein);
 14. A statement prohibiting Retaliation (as defined herein) and method for reporting Retaliation;
 15. The name, address, telephone number and website, if available, of community-based state and national Sexual Assault crisis centers
- E. Supportive & Protective Measures:** The College recognizes the importance of Survivors/Victims of Prohibited Conduct as well as Respondents to feel safe and secure on Campus. Accordingly, both parties are entitled to request, receive assistance in requesting, and receive, to the extent reasonably available, supportive/protective measures regardless of whether or not the Survivor/Victim chooses to file a Formal Complaint or any other complaint resolution process offered by the College, or to file a report with law enforcement. Said requests should be submitted to the Title IX Coordinator. Supportive & Protective Measures may include, but are not limited to:
1. Assistance with changing an academic or work schedule;
 2. Providing an escort to ensure safe movement between classes, activities, or work locations;
 3. Mutual no-contact orders;
 4. Counseling services;
 5. Medical services; and
 6. Academic support services.
- F. Identifying and Locating Witnesses:** It is the College's responsibility to take reasonable steps to identify and locate witnesses to an alleged incident of Prohibited Conduct. The Survivor/Victim is encouraged to identify any known witnesses at the time they file a report or Formal Complaint.
- G. Contacting and Interviewing Respondent:** The College will make every effort not to contact the Respondent until such time as a Formal Complaint is filed. The Survivor/Victim will be notified of the College's intent to contact and interview the Respondent prior to said contact.
- H. Contacting and Cooperating with Law Enforcement:** A Survivor/Victim has the right to notify law enforcement or to decline to notify law enforcement. A Survivor/Victim has the right to request and receive assistance with notifying law enforcement. Requests for assistance should be made to the Title IX Coordinator.
- I. Importance of Preserving Evidence:** Survivors/Victims of sexual violence should take steps to preserve all physical evidence to assist in proving that a crime occurred or in obtaining an order of protection, restraining order or other such court order.

- A. **Privacy:** The College will protect the identity of parties and witnesses involved in the resolution of a report of Prohibited Conduct to the extent doing so does not unreasonably interfere with legally protected rights of others, the investigation into and resolution of the reported conduct, or the implementation of supportive and protective measures, sanctions or remedies.

III. **Formal Complaint Process**

- A. **General:** The filing of a Formal Complaint will trigger the formal investigation and hearing procedures (collectively referred to as “grievance procedures”) set forth herein. Even in the absence of a Formal Complaint, a Respondent may be subject to discipline through other applicable College procedures and the College may still take other remedial action to address the alleged conduct. There is no deadline on the filing of a Formal Complaint, though the College encourages individuals to do so as early as possible following an incident.
- B. **Filing a Formal Complaint:** A Formal Complaint must be submitted in writing and signed by either
 - 1. A Survivor/Victim of the alleged Prohibited Conduct described in the complaint; or
 - 2. The Title IX Coordinator.
- C. **Notice of Formal Complaint:** Within five (5) days following the filing of a Formal Complaint, the Title IX Coordinator shall send written notice simultaneously to all parties identified in the Formal Complaint containing the following information:
 - 1. A copy of these Administrative Procedures;
 - 2. Notice of the allegations and the type(s) of Prohibited Conduct implicated;
 - 3. The identity of the parties involved in the alleged incident;
 - 4. The date, time, and location of the alleged incident (if known);
 - 5. The parties’ right to an advisor of their choice, who may, but need not be an attorney;
 - 6. A statement that the Respondent is presumed “not responsible” for the alleged conduct and that a determination will be made only at the conclusion of these procedures;
 - 7. The parties’ right to inspect and review evidence;
 - 8. The provision of the provision in Board Policy Number 3.11 and any other applicable policy that prohibits knowingly making false statements or knowingly submitting false information to a College official or during these or other College proceedings;
 - 9. A statement prohibiting Retaliation;
 - 10. A statement regarding the availability of resources and Supportive & Protective measures for the parties; and
 - 11. The duty of the College to update the Notice if there are any substantive changes to the information contained in the original Notice (e.g, the inclusion of additional allegations in the investigation).
- D. **Consolidation of Formal Complaints:** The College may consolidate Formal Complaints containing allegations of Prohibited Conduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations arise out of the same facts or circumstances.

- E. **Informal Resolution:** At any time following the filing of a Formal Complaint, the College may consider whether or not Informal Resolution, as described in Section IX of these Procedures, may be appropriate.

IV. **Grievance Procedures—General**

- A. **Timeframes & Delays:** The parties have the right to expect that the Grievance Procedures set forth herein will begin promptly following the filing of a Formal Complaint and proceed in a timely manner. The College will consider requests for extensions or delays, only for good cause. If the process is delayed or a deadline is extended, the College will so notify the parties, in writing.
- B. **Fair & Equal Treatment of all Parties:** The College will provide fair and equal treatment to all parties involved in the Grievance process, including the following:
 - 1. Every Survivor/Victim has the right to be taken seriously and every Respondent has the right to know that guilt is not presumed.
 - 2. All parties will be treated with respect;
 - 3. All parties will have equal opportunity to inspect and review evidence, both inculpatory and exculpatory, obtained as part of investigation to which they are entitled;
 - 4. All parties will have an equal opportunity to present fact and expert witnesses, and other inculpatory or exculpatory evidence;
 - 5. The college will conduct an objective evaluation of all relevant evidence;
 - 6. All parties may be accompanied by an advisor of their choice during any aspect of the Grievance process where the party's presence has been requested;
 - 7. The College will not place a limit on the choice of advisor for either party, though said advisor will be expected to abide by any applicable rules of decorum established by the College;
 - 8. Any written notice to a party whose participation is invited or expected will contain the date, time, location, identity of participants and purpose of the meeting/hearing and will be sent with sufficient time to allow the parties to prepare to participate;
 - 9. The parties will not be restricted from discussing the allegations under investigation, or from gathering evidence or witnesses bearing in mind that the College will take action if said conduct rises to the level of Retaliation, witness tampering, or other conduct prohibited by the College; and
 - 10. Any written notice, report or determination made in accordance with the Grievance Process, shall be sent simultaneously to all parties involved.
- C. **Prohibited Evidence:** the following evidence will not be sought, relied upon or otherwise used in the investigation of a Formal Complaint or in making a determination about responsibility:
 - 1. Information protected by a legally recognized privilege, UNLESS the person holding the privilege has provided the College with voluntary written consent or has otherwise waived the privilege;
 - 2. Information about the Survivor/Victim's past sexual behavior or predisposition EXCEPT in compliance with federal rape shield and other statutory protections.
- D. **Concurrent Criminal Investigation:** The existence of a concurrent criminal investigation by law enforcement will not necessarily delay or interrupt the investigation and grievance

procedures outlined herein. However, the law enforcement agency may request that the College temporarily suspend its investigation or grievance process, which request the College will evaluate to determine whether or not a suspension is appropriate and, if so, how long. It is understood that, during an ongoing criminal investigation, information relevant to the pending case or prosecution may not be permitted to be shared with the College until the criminal matter is closed.

- E. **Sanctions & Remedies:** A Respondent found responsible for Prohibited Conduct through these Grievance Procedures may be subject to sanctions up to and including termination and/or dismissal. Sanctions for Prohibited Conduct include those described in the conduct and disciplinary policies applicable to the specific category of Respondent. These include:
1. For Students: The Student Code of Conduct.
 2. For Employees: Board Policy, Administrative Procedure and applicable employee group guidebooks and/or collective bargaining agreements.

Remedies for Prohibited Conduct may include the actions set forth in Section I.E.11, above.

- F. **Qualifications of Investigators, Decision-Makers and Facilitators:** All those involved in the investigation or resolution allegations of Prohibited Conduct shall
1. Serve impartially and be free from actual or reasonably perceived conflicts of interest or bias; and
 2. Be trained, as required by law, to include: definitions of and issues related to Prohibited Conduct; how to conduct an investigation and hearing; how to serve impartially and avoid prejudice; how to make determinations on relevancy of evidence; how to create an investigative report; how to evaluate credibility; how to synthesize evidence; and how to avoid sex stereotypes or generalizations based on sex.

V. Grievance Procedures—Investigation

- A. **Assignment of Investigator:** Within five (5) days of the receipt of a Formal Complaint, the Title IX Coordinator shall appoint an investigator. The identity of and contact information for the assigned investigator shall either be included in the Notice of Formal Complaint, or the Title IX Coordinator shall send written notice to all parties containing that information along with an explanation of the process for challenging the assignment based on conflict of interest or bias. Any challenge must be resolved before the investigation process may begin.
- B. **Evidence Gathering:** The investigator shall be responsible for gathering evidence, both inculpatory and exculpatory, relevant to the allegations contained in the Formal Complaint. At minimum, the investigator shall take reasonable steps to interview all parties. After available evidence has been gathered, the investigator will send the parties and their advisors (if any) the evidence subject to inspection and review in either electronic or hard copy format (at the discretion of the investigator). The parties shall have 10 days to submit a written response to the investigator, which response will be considered in completing the investigative report. All said evidence shall be available to the parties for inspection and review at any hearing.
- C. **Investigative Report:** Within ten (10) days of receiving the parties' responses to the evidence and/or expiration of the deadline for submission of the responses, the investigator

shall send to the parties, a written investigative report that summarizes relevant evidence. The parties shall have 10 days to submit to the investigator a written response.

1. **Consolidated Complaints:** Where a decision has been made to consolidate complaints, the investigator may create a single investigative report for all said complaints.
2. **Parties' Response:** In the written response, parties may make corrections, provide appropriate context, raise defenses, identify if relevant evidence is missing or raise any other issues in relation to the evidence they feel it is important for the Grievance Officer to consider. Failure to submit a response will NOT preclude the parties from raising those issues later in the grievance process, such as during any future hearing.

VI. Grievance Procedures--Pre-Hearing

- A. **Submission of Investigative Report & Response(s):** Within ten (10) days of receiving the parties' responses or expiration of the deadline to submit said responses, the investigator shall send a copy of the investigative report and the parties' responses, if any, to the Title IX Coordinator.
- B. **Title IX Determination:** The Title IX Coordinator shall review the investigative report and responses thereto and decide whether or not the alleged conduct, if proven, would constitute Sex Discrimination or Sexual Harassment as defined by Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et. seq.) and its implementing regulations (34 CFR §106 et. seq.). A written decision and reasons therefore shall be sent to the parties within five (5) days of receipt of the investigative report and responses:
 1. **Title IX Compliant Hearing Referral:** If the Title IX Coordinator determines that the alleged conduct would constitute Sex Discrimination or Sexual Harassment as defined by Title IX, the Title IX Coordinator shall appoint a Grievance Officer to conduct a hearing in accordance with Section VII below.
 2. **Other Prohibited Conduct Hearing Referral:** If the Title IX Coordinator determines that the alleged conduct would NOT constitute Sex Discrimination or Sexual Harassment as defined by Title IX, but that the conduct, if proven, would constitute other Prohibited Conduct as defined herein, the Title IX Coordinator shall appoint a Grievance Officer to conduct a hearing in accordance with Section VIII below. The hearing shall not consider or result in findings of Sex Discrimination or Sexual Harassment as defined by Title IX.
 3. **Dismissal of Formal Complaint:** If the Title IX Coordinator determines that the alleged conduct would not constitute Prohibited Conduct, the Formal Complaint shall be dismissed.
 4. **Referral to Other College Processes:** If, in the course of investigating the Formal Complaint, conduct is alleged or discovered that may violate any other College Policy (e.g., the Code of Student Conduct), the Title IX Coordinator may refer the matter for consideration through any other applicable College process.
- C. **Appeal of Title IX Determination:** To the extent the Title IX Coordinator determines that the alleged conduct does not constitute Sex Discrimination or Sexual Harassment as defined by Title IX, that decision may be appealed by any party, utilizing the process set forth in

Section V.E. below. Any other applicable process should not proceed until the appeal has been decided or the deadline for filing an appeal has expired.

VII. Grievance Procedures—Hearing & Appeal (Title IX Only)

- A. **Assignment of the Grievance Officer:** Within five (5) days of the Title IX Determination set forth in section VI.B., above (which deadline may be extended if an appeal of the determination has been filed), the Title IX Coordinator will appoint a Grievance Officer to conduct a hearing to determine responsibility. A copy of the investigative report and party response(s), if any, shall be provided to the Grievance Officer. Within two (2) days of the assignment, written notice of the identity of and contact information for the Grievance Officer and an explanation of the process for challenging the assignment based on conflict of interest or bias shall be sent to all parties. Any challenge must be resolved before the hearing process may begin.
- B. **Notice of Hearing:** Within five (5) days following assignment of the Grievance Officer or any decision regarding a challenge to that assignment, the Grievance Officer shall notify the parties, in writing, of the date, time, and location of the hearing along with their Notice of Hearing Rights & Responsibilities. The Notice of Hearing must be sent at least ten (10) days prior to the assigned hearing date.
1. **Consolidated Complaints:** In situations where complaints have been consolidated as described herein, the Grievance Officer may choose to conduct a single hearing, or divide the hearings, as appropriate and with the consent of the parties.
 2. **Consolidated Hearings:** In situations that involve Prohibited Conduct and conduct that may violate other College Policies or standards of conduct, the hearings on all conduct violations may be consolidated utilizing these procedures with the parties' consent. The Notice of Hearing will include any decision to consolidate hearings.
- C. **Advisor Check:** Within five (5) days prior to the assigned hearing date, the parties must notify the Grievance Officer, in writing, of the name and contact information of the advisor they have chosen to attend the hearing and conduct questioning on their behalf. The Grievance Officer will assign an advisor to attend the hearing for any party who fails to provide this notification. The College will ensure that any assigned advisor understands the purpose and scope of her/his role, including how to conduct questioning.
- D. **Hearing**
1. **Live Hearing:** A live hearing will be conducted with all parties physically present in the same geographic location, or “virtually” present through the use of technology enabling the participants to simultaneously hear and see one another. An audio or audiovisual recording, or transcript of the hearing will be created and available for inspection and review by any party.
 2. **Closed Hearing:** The hearing shall be closed, meaning that only the parties and decision-maker(s) shall be present for the entirety of the hearing. Witnesses will be present (virtually or in person) only while providing their testimony.
 3. **Presentation of Evidence:** All parties will have an equal opportunity to make statements and present relevant evidence of any sort (e.g., documents, recordings, witness testimony, etc.) regardless of whether or not that evidence was provided or considered in the investigation process.

- i. **Questioning:** The Grievance Officer and the parties shall have an opportunity to pose relevant questions and follow-up questions of the parties and witnesses. All said questioning must be conducted directly, orally, and in real time. With regard to a party's right to ask questions of other parties and their witnesses, only a party's advisor, NOT the party her/himself may conduct said questioning on behalf of the party. The Grievance Officer does not have authority to compel the testimony of any person (party or witness). If a party or witness fails to submit to questioning at the hearing, the Grievance Officer may not rely on any statement of that party or witness in reaching a determination regarding responsibility.
- ii. **Relevancy Determinations:** Before a party or witness answers a question from another party, the Grievance Officer must determine if the question is relevant and explain any decision to exclude the question as not relevant. A challenge to that determination can be made, either during or after the hearing, as instructed by the Grievance Officer. Prohibited Evidence as described herein is considered to be, per se NOT relevant.

4. Determination Regarding Responsibility: The Grievance Officer will make a determination regarding responsibility within five (5) days following the close of the hearing, and provide written notice of that determination to the parties and Title IX Coordinator within 7 days of making that determination. In making that determination, the Grievance officer will objectively evaluate the investigative report and all relevant evidence (both inculpatory and exculpatory), weigh the credibility of the evidence and testimony, and apply the requisite standard of proof.

- i. **Standard of Proof:** The standard of proof that will be utilized by the Grievance Officer, in making a determination regarding responsibility, will be "a preponderance of the evidence". This means that the Grievance Officer will determine if it is more likely than not that the Respondent is responsible for the alleged Prohibited Conduct.
- ii. **Consideration of Results of Other Investigations or Processes:** The results of other investigations or procedures (e.g., criminal, or administrative) may be considered but will not be deferred to or relied upon in making a determination regarding responsibility.
- iii. **Consideration of Prior Findings of Prohibited Conduct:** The Grievance Officer may only consider a Respondent's prior findings of responsibility for Prohibited Conduct or other relevant misconduct in determining appropriate sanctions and not in any finding of responsibility for the current matter.
- iv. **Determination Notice:** The notice of the determination regarding responsibility shall include, at minimum, the following:
 - a. Identification of the allegations potentially constituting Prohibited Conduct;
 - b. A description of the procedural steps taken from receipt of the Formal Complaint through determination;
 - c. Findings of fact supporting the determination;

- d. Conclusions regarding the application of the College's policies and procedures to the facts;
- e. A statement of and rationale for the result as to each allegation including a determination regarding responsibility, any sanction that will be imposed on Respondent, and whether any remedies provided to Survivor/Victim were designed to restore or preserve equal access to the College's program or activity;
- f. The process and bases to appeal the determination; and
- g. A statement that the results will become final either on the date the College provides the parties with the written determination of the result of the appeal (if an appeal is filed), or the date on which the appeal would no longer be considered timely (the appeal deadline).

E. Appeal

1. **Eligibility:** Any party is eligible to appeal a determination regarding responsibility or Title IX determination per VI.B. of these procedures.
2. **Bases for Appeal:** The following are the only bases upon which an appeal will be considered:
 - i. **Procedural irregularity:** there was an irregularity in the processing of the Formal Complaint (e.g., investigation or hearing) that affected the outcome of the matter;
 - ii. **New Evidence:** there is evidence that was not reasonably available before or at the time the determination regarding responsibility was made that could reasonably affect the outcome of the matter;
 - iii. **Conflict of Interest:** The Title IX Coordinator, investigator and/or grievance officer had a conflict of interest or bias for or against survivors/victims or Respondents generally or the individual Survivor/Victim or Respondent that affected the outcome of the matter;
 - iv. **Disproportionate Sanction:** The sanction imposed on the Respondent is disproportionate to the findings of responsibility on alleged conduct.
3. **Written Appeal:** In order to initiate the appeal process, a party must submit the appeal, in writing, to the Title IX Coordinator no later than ten (10) days following receipt of the Determination Notice. The appeal must be based upon at least one of the allowable bases for appeal. Upon receipt of the Appeal the Title IX Coordinator will send a Notice of Appeal to all parties providing them with the copy of the written appeal and allowing for both parties to submit to the Title IX Coordinator a written statement in support of or challenging the relevant determination and any statements contained in the Appeal.
4. **Assignment of Appellate Officer:** Within five (5) days following receipt of the parties' statements or expiration of the deadline to submit statements, the Title IX Coordinator will assign an Appellate Officer to consider the appeal and will provide written notice to the parties of the identity of and contact information for the Appellate Officer along with an explanation of the process for challenging the assignment based on conflict of interest or bias. Any challenge must be resolved before the Appeal review process may begin.

5. **Review Process:** For purposes of considering and coming to a conclusion about the appeal, the Title IX Coordinator will provide the Appellate Officer with access to the Appeal, written responses thereto, written determination subject to appeal, Hearing record (if applicable), Investigative Report and any other relevant records received, created or maintained as part of these procedures.

6. **Appeal Decision:** Within five (5) days following receipt of the Appeal and relevant materials, the Appellate Officer will make a determination. No later than 7 days following that decision, the Appellate Officer will provide written notice to all parties, with a copy to the Title IX Coordinator, of the result of the appeal and the rationale for that result.

VIII. Grievance Procedures—Hearing & Appeal (Non-Title IX)

A. **Assignment of the Grievance Officer:** Within five (5) days of the Title IX Determination set forth in section VI.B., above (which deadline may be extended if an appeal of the determination has been filed), the Title IX Coordinator will appoint a Grievance Officer to conduct a hearing to determine responsibility. A copy of the investigative report and party response(s), if any, shall be provided to the Grievance Officer. Within five (5) days of the assignment, written notice of the identity of and contact information for the Grievance Officer and an explanation of the process for challenging the assignment based on conflict of interest or bias shall be sent to all parties. Any challenge must be resolved before the hearing process may begin.

B. **Notice of Hearing:** Within five (5) days following assignment of the Grievance Officer or any decision regarding a challenge to that assignment, the Grievance Officer shall notify the parties, in writing, of the date, time, and location of the hearing along with their Notice of Hearing Rights & Responsibilities. The Notice of Hearing must be sent at least ten (10) days prior to the assigned hearing date.

1. **Consolidated Complaints:** In situations where complaints have been consolidated as described herein, the Grievance may choose to conduct a single hearing, or divide the hearings, as appropriate and with the consent of the parties

2. **Consolidated Hearings:** In situations that involve Prohibited Conduct and conduct that may violate other College Policies or standards of conduct, the hearings on all conduct violations may be consolidated utilizing these procedures with the parties' consent. The Notice of Hearing will include any decision to consolidate hearings.

C. Hearing

1. **Hearing:** A hearing will be conducted with all parties invited to be physically present in the same geographic location, or “virtually” present through the use of technology enabling the participants to simultaneously hear and see one another. An audio, audiovisual or transcript of the hearing will be created and available for inspection and review by any party.

2. **Closed Hearing:** The hearing shall be closed, meaning that only the parties and decision-maker(s) shall be present for the entirety of the hearing. Witnesses will be present (virtually or in person) only while providing their testimony.

3. **Presentation of Evidence:** All parties will have an equal opportunity to make statements and present relevant evidence of any sort (e.g., documents, recordings,

witness testimony, etc.) regardless of whether or not that evidence was provided or considered in the investigation process.

- i. **Questioning:** The Grievance Officer and the parties shall have an opportunity to pose relevant questions and follow-up questions of the parties and witnesses. The parties may NOT directly question one another, but may suggest questions to the Grievance Officer to direct to a party or witness. The Grievance Officer does not have authority to compel the testimony of any person (party or witness).

4. Determination Regarding Responsibility: The Grievance Officer will make a determination regarding responsibility within five (5) days following the close of the hearing, and provide written notice of that determination to the parties and Title IX Coordinator within seven (7) days of making that determination. In making that determination, the Grievance officer will objectively evaluate all relevant evidence (both inculpatory and exculpatory), weigh the credibility of the evidence and testimony, and apply the requisite standard of proof.

- i. **Standard of Proof:** The standard of proof that will be utilized by the Grievance Officer, in making a determination regarding responsibility, will be “a preponderance of the evidence”. This means that the Grievance Officer will determine if it is more likely than not that the Respondent is responsible for the alleged Prohibited conduct.
- ii. **Consideration of Results of Other Investigations or Processes:** The results of other investigations or procedures (e.g., criminal or administrative) may be considered but will not be deferred to or relied upon in making a determination regarding responsibility.
- iii. **Consideration of Prior Findings of Prohibited Conduct:** The Grievance Officer may only consider a Respondent’s prior findings of responsibility for Prohibited Conduct or other relevant misconduct in determining appropriate sanctions and not in any finding of responsibility for the current matter.
- iv. **Determination Notice:** The notice of the determination regarding responsibility shall include, as minimum, the following:
 - a. Identification of the allegations potentially constituting Prohibited Conduct;
 - b. A description of the procedural steps taken from receipt of the Formal Complaint through determination;
 - c. Findings of fact supporting the determination;
 - d. Sections of the College’s policies or procedures that have been violated;
 - e. A determination regarding responsibility,
 - f. any sanction that will be imposed on Respondent
 - g. The process and bases to appeal the determination; and
 - h. A statement that the results will become final either on the date the College provides the parties with the written determination of the

result of the appeal (if an appeal is filed), or the date on which the appeal would no longer be considered timely (the appeal deadline).

D. Appeal

1. **Eligibility:** Any party is eligible to appeal a determination regarding responsibility.
2. **Bases for Appeal:** The following are the only bases upon which an appeal will be considered:
 - i. **Procedural irregularity:** there was an irregularity in the processing of the Formal Complaint (e.g., investigation or hearing) that affected the outcome of the matter;
 - ii. **New Evidence:** there is evidence that was not reasonably available before or at the time the determination regarding responsibility was made that could affect the outcome of the matter;
 - iii. **Conflict of Interest:** The Title IX Coordinator, investigator, or grievance officer had a conflict of interest or bias for or against survivors/victims or respondents generally or the individual Survivor/Victim or Respondent that affected the outcome of the matter;
 - iv. **Disproportionate Sanction:** The sanction imposed on the Respondent is disproportionate to the findings of responsibility on alleged conduct.
3. **Written Appeal:** In order to initiate the appeal process, a party must submit the appeal, in writing, to the Title IX Coordinator no later than five (5) days following receipt of the Determination Notice. The appeal must be based upon at least one of the allowable bases for appeal. Upon receipt of the Appeal the Title IX Coordinator will send a Notice of Appeal to all parties providing them with the copy of the written appeal and allowing for both parties to submit to the Title IX Coordinator a written statement in support of or challenging the relevant determination and any statements contained in the Appeal.
4. **Assignment of Appellate Officer:** Within five (5) days following receipt of the parties' statements or expiration of the deadline to submit statements, the Title IX Coordinator will assign an Appellate Officer to consider the appeal and will provide written notice to the parties of the identity of and contact information for the Appellate Officer along with an explanation of the process for challenging the assignment based on conflict of interest or bias. Any challenge must be resolved before the Appeal review process may begin.
5. **Review Process:** For purposes of considering and coming to a conclusion about the appeal, the Title IX Coordinator will provide the Appellate Officer with access to the Appeal, written responses thereto, written determination subject to appeal, Hearing record (if applicable), Investigative Report and any other relevant records received, created or maintained as part of these procedures.
6. **Appeal Decision:** Within five (5) days following receipt of the Appeal and relevant materials, the Appellate Officer will make a determination. No later than seven (7) days following that decision, the Appellate Officer will provide written notice to all parties, with a copy to the Title IX Coordinator, of the result of the appeal and the rationale for that result.

IX. Informal Resolution:

- A. **Applicable Process:** To the extent the College offers an informal resolution process through other policies, procedures, or collective bargaining agreements applicable to the parties, the parties may request that the Title IX Coordinator refer the matter to that process. This may be done at anytime prior to a determination of responsibility set forth above.
 - B. **Conditions:** The following conditions must be met for the Title IX Coordinator to refer the matter for informal resolution:
 - 1. The Title IX Coordinator determines that the matter is appropriate for informal resolution;
 - 2. The matter does not involve allegations that an employee sexually harassed a student;
 - 3. The matter does not involve allegations of sexual violence;
 - 4. The Title IX Coordinator provides written notice to the parties of
 - i. The allegations;
 - ii. The requirements of the informal resolution process, including any circumstances that might preclude the parties from resuming the process described herein;
 - iii. The process to challenge the appointment of an informal resolution facilitator due to a conflict of interest or bias;
 - iv. the consequences of participation in informal resolution, including any records that could be created, maintained or shared;
 - v. the right to withdraw from the informal resolution process at any time prior to reaching agreement.
 - 5. The Title IX Coordinator has obtained voluntary written consent to informal resolution from all parties.
 - C. **Effect:** If the conditions have been met and the parties consent to participation in the informal resolution process, any proceedings initiated herein shall be suspended unless the Title IX Coordinator determines that doing so would put others at risk.
- X. **Emergency Removal:** Anytime after the receipt of a report of Prohibited Conduct, the College may consider an emergency removal of Respondent from Campus, some part of Campus or from and the College's education programs or activities so long as the following conditions are met.
- A. **Required Assessment:** The College performs an individualized safety and risk assessment that determines whether or not there is an immediate threat to the physical health or safety of any individual (student, employee or third party) arising from the allegations that justifies removal.
 - B. **Notice:** If the College decides to implement an emergency removal, it will provide written notice to the Respondent of that decision explaining the implications of that removal, the length of time the removal will remain in effect, the Respondent's right to challenge the decision, the official to whom that challenge should be submitted and the deadline for doing so.
 - C. **Challenge:** The Respondent may challenge an emergency removal decision by providing a written response to the official designated in the Notice within seven (7) days after receipt of the notice.
 - D. **Effect of Removal:** Any investigation into or determination of responsibility regarding allegations of Prohibited Conduct will follow the procedures contained herein, regardless of

the Respondent's removal, though additional precautions may be necessary to address any ongoing threat.

- XI. **Recordkeeping:** The Office of the Title IX Coordinator shall keep for a period of seven (7) years from the date they were created, records of each investigation, determination regarding responsibility, hearing transcript or recording, sanctions imposed on a Respondent, remedies provided to a Survivor/Victim, appeal and result therefrom, informal resolution, training materials described herein, actions and supportive/protective measure taken or refused in response to reports of Prohibited Conduct.
- XII. **Resources:** The College will provide resources to employees and students. A complete list of resources, including medical, mental health, crisis and emergency response, and ongoing assistance, can be found on the Title IX web page.