



Ohio Administrative Code

Rule 3357:10-1-45 Title IX, sexual harassment, and sexual violence.

Effective: February 22, 2021

(A) Introduction

This rule outlines the process Marion technical college ("the college") will follow when it receives notice of sexual harassment, which includes sexual assault, dating violence, domestic violence, stalking, and retaliation (collectively "prohibited conduct").

(B) Jurisdiction

This rule applies to all students, employees, volunteers, vendors, and visitors to the college.

This rule applies to prohibited conduct that is reported to have occurred:

- (1) In connection with the college's education program or activity; or
- (2) On property owned or controlled by the college; or
- (3) Using computer or internet networks, digital platforms or computer hardware or software owned or operated by, or used in the operations of, the college's programs or activities over which the college has substantial control; or
- (4) Where the conduct is reported to have a continuing adverse effect on an educational program or activity of the college, including employment, regardless of where the conduct is reported to have occurred.

The college's response to prohibited conduct depends in part on its control over the respondent. This rule applies when the respondent is a member of the college community or was a member of the college community at the time of the alleged incident and intends to participate in an education program or activity of the college. However, if prohibited conduct is reported when the college does



not have control over the respondent, the college will still work with the complainant regarding their options and appropriate supportive measures. The college also will consider whether it is appropriate to take any other actions to protect the safety of the college community under these circumstances.

The elements established in this rule have no effect and are not transferable to any other policy of the college except as narrowly defined in this rule. This rule does not set a precedent for other policies, procedures, or processes of the college and may not be cited for or against any right or aspect of any other policy, procedure, or process.

(C) Notice of non-discrimination and purpose of rule

The college does not discriminate in its educational programs and activities, admissions or employment on the basis of sex, race, color, religion, national origin, ancestry, age, disability, ethnicity, genetic information (GINA), medical status, military status, sexual orientation, pregnancy, protected veteran status, status as a parent of a young child or status as a foster parent, or gender identity and expression. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972 and its implementing regulations (34 C.F.R. Part 106, as amended by 85 FR 30026 [May 2020]).

The college is committed to fostering a climate free from discrimination on the basis of sex in the following areas: admissions, educational programs and activities, housing, access to classes and schools, counseling, financial assistance, employment assistance, health and insurance benefits and services, marital or parental status, and athletics. This policy is strictly enforced by the college, and reports of prohibited conduct receive prompt and equitable attention and appropriate corrective action.

Sex discrimination does not include where such differential treatment is explicitly permitted by federal law or regulations, such as where sex or gender is a bona fide occupational qualification reasonably necessary to the normal operation of the college.

This rule prohibits certain conduct, referred to as prohibited conduct. Sexual harassment (including sexual assault, dating violence, domestic violence, and stalking). prohibited conduct under this rule



also is prohibited under the Clery Act as amended by the Violence Against Women Act (VAWA). The college will respond promptly in a manner that is not deliberately indifferent when the college has actual knowledge of prohibited conduct under this rule.

This rule sets forth the manner in which individuals can report or file a formal complaint of potential prohibited conduct, as well as the process that will be used to provide for the prompt and equitable resolution of such reports or formal complaints. Any person may report potential prohibited conduct, whether or not the person reporting is the person alleged to have experienced the prohibited conduct.

(D) Designation of Title IX coordinator and deputy coordinators

The college hereby designates and authorizes the following individual as the Title IX coordinator to coordinate its efforts to comply with Title IX:

Cretia Johnson, Title IX coordinator, 1467 Mount Vernon avenue, Marion, Ohio 43302, johnsonc@mtc.edu, (740) 386-4195.

Any inquiries or complaints concerning the application of Title IX may be referred to the Title IX coordinator using the contact information above, or pursuant to paragraph (H) of this rule. Questions or concerns about Title IX, or the application of Title IX in this rule, also may be referred to the U.S. department of education's office for civil rights at <https://ocrcas.ed.gov/contact-ocr>.

The Title IX coordinator is responsible for managing the college's compliance with Title IX and the effective implementation of this rule. Any references to the actions of the Title IX coordinator in this rule may be performed by the Title IX coordinator or designee.

The college designates and appoints the following individuals as Title IX deputy coordinators to assist the Title IX coordinator in fulfilling efforts to comply with Title IX. Title IX deputy coordinators are also referred to in this rule as designee.

Jenifer Montag, Title IX deputy coordinator, 1467 Mount Vernon avenue, Marion, Ohio 43302, montagj@mtc.edu, (740) 386-4222.



Laura Emerick, Title IX deputy coordinator, 1467 Mount Vernon avenue, Marion, Ohio 43302, emerickl@mtc.edu, (740) 725-4013.

Laura Woughter, Title IX deputy coordinator, 1467 Mount Vernon avenue, Marion, Ohio 43302, woughterl@mtc.edu, (740) 386-4217.

In addition to addressing complaints against a particular party, the Title IX coordinator also facilitates the handling of reports that college policies or practices may discriminate on the basis of sex, gender identity, gender expression, or sexual orientation. The Title IX coordinator conducts an assessment of such concerns and, using procedures the Title IX coordinator determines to be appropriate given the circumstances, and works with the college to ensure that its policies and practices are compliant.

(E) Non-discrimination in application

The requirements and protections of this rule apply equally regardless of sex, race, color, religion, national origin, ancestry, age, disability, ethnicity, genetic information (GINA), medical status, military status, sexual orientation, pregnancy, protected veteran status, status as a parent of a young child or status as a foster parent, and gender identity and expression covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a complainant, respondent, or witness. Individuals who wish to file a complaint about the college's rule may contact the U.S. department of education's office for civil rights at <https://ocracas.ed.gov/contact-ocr>.

(F) Definitions

(1) Actual knowledge - notice of sexual harassment or allegations of sexual harassment to the college's Title IX coordinator or any of the following officials who have the authority to institute corrective measures on behalf of the college:

(a) Deputy Title IX coordinators;



(b) Campus public safety;

(c) Employees of human resources; or

(d) Administrative employees (directors and above) with managerial responsibilities, including all academic directors.

This standard is not met when the only official of the college to have knowledge is the respondent.

(2) Business day - the hours between eight a.m. and five p.m. Monday through Friday, excluding holidays and other times when the college is closed or notifies changes to its regular business hours.

(3) Calendar day - the period from one midnight to the following midnight.

(4) Coercion - a type of force that relies on unreasonable pressure for sexual activity against an individual's will. Coercion includes a wide range of behaviors which override the voluntary nature of participation in sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another.

(5) Complainant - an individual who is alleged to have experienced conduct that could constitute prohibited conduct under this rule.

(6) Confidentiality - see paragraph (I) of this rule.

(7) Consent - a freely and affirmatively communicated willingness to participate in sexual activity, expressed by clear, unambiguous words or actions. It is the responsibility of the initiator of the sexual activity to ensure that the initiator has the other person's consent to engage in sexual activity, throughout the entire sexual activity. At any time, a participant can communicate that they no longer consent to continuing the activity. Consent may never be obtained through the use of force, including coercion, or if the victim is mentally or physically incapacitated, including through the use of drugs or alcohol. Consent cannot be assumed based on the existence of a previous intimate relationship or sexual encounter. Additionally, the initiator's use of alcohol or drugs does not diminish the initiator's responsibility to obtain consent. There is no requirement of a party to resist the sexual advance or



request, but resistance is a clear demonstration of non-consent. The presence of consent is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

(8) Education program or activity - includes all of the college's operations, which encompasses employment, as well as locations, events or circumstances over which the college exercises substantial control over both the respondent and the context in which the conduct occurs.

(9) Exculpatory evidence - evidence that tends to suggest that the respondent did not commit a policy violation.

(10) Force - the use of physical violence and/or imposing on someone physically to engage in sexual activity and/or the use of threats, intimidation and coercion to overcome resistance to sexual activity.

(11) Formal complaint - a document, including an electronic submission, filed by a complainant with a signature or other indication that the complainant is the person filing the formal complaint, alleging prohibited conduct against a respondent about conduct within the college's jurisdiction (as defined in paragraph (B) of this rule) and requesting initiation of the formal procedure to investigate the allegation of sexual harassment. The Title IX coordinator, or designee, also may file formal complaints as explained in paragraph (N)(2) of this rule.

(12) Inculpatory evidence - evidence that tends to suggest that the respondent committed a policy violation.

(13) Incapacitation - a state in which a person cannot make rational decisions about engaging in sexual activity. Incapacitation may result from a temporary or permanent mental or physical disability, from sleep or unconsciousness, or from the taking of alcohol or other drugs. Apparent consent by an incapacitated complainant is not valid where a respondent knew or should have known that the complainant was incapacitated.

(14) Preponderance of the evidence - the standard of evidence used to resolve the disputed issue of fact and to make decisions as to whether prohibited conduct occurred. A preponderance of the evidence exists where the evidence establishes that the disputed fact is more likely than not to be



true. A preponderance of the evidence also exists where the evidence establishes that the prohibited conduct is more likely than not to have been committed. In determining whether a preponderance of the evidence exists, the decision-maker relies on the quality and relative weight of the evidence rather than the quantity of evidence.

(15) Privacy - see paragraph (I) of this rule.

(16) Prohibited conduct - the conduct prohibited by this rule. There are six types of prohibited conduct that qualify as "Title IX sexual harassment," each of which is defined more specifically below in paragraph (G) of this rule: quid pro quo sexual harassment; unwelcome conduct sexual harassment; sexual assault; dating violence; domestic violence; and stalking, on the basis of sex. The definitions used here are mandated by federal regulations.

(17) Relevant evidence and questions - relevant evidence and questions refer to any questions and evidence that tend to make an allegation of sexual harassment more or less likely to be true.

Relevant evidence and questions do not include the following types of evidence and questions, which are deemed irrelevant at all stages of this rule:

(a) Evidence and questions about the complainant's sexual predisposition or prior sexual behavior unless:

(i) They are offered to prove that someone other than the respondent committed the conduct alleged by the complainant; or

(ii) They concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

(b) Any party or witness' medical, psychological and similar records unless the individual to whom the record pertains has given voluntary, written consent.

(c) Evidence and questions that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the individual who holds the privilege has waived it.



(18) Respondent - an individual who is alleged to have committed conduct that could constitute prohibited conduct under this rule.

(19) Sexual harassment - means conduct on the basis of sex that satisfies one or more of the following: an employee of the institution conditioning the provision of an aid, benefit or service of the college on an individual's participation in unwelcome sexual conduct; unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it denies a person access to the institution's education program or activity; or "sexual assault" (as defined in the Clery Act), "dating violence," "domestic violence," or "stalking" as defined (all as defined in VAWA).

(20) Supportive measures - non-disciplinary and non-punitive resources and measures available to the parties. When a complainant reports potential prohibited conduct as defined in this rule, the Title IX coordinator or designee will contact the complainant to assess their immediate needs and offer supportive measures as appropriate. Complainants have the right to receive supportive measures from the college regardless of whether they decide to file a formal complaint. The Title IX coordinator also shall offer supportive measures to respondents. Supportive measures also include "protective measures" as that term is defined by the Clery Act and implementing regulations.

(21) Writing - includes written, electronic, or email communication.

(G) Prohibited conduct

Sexual harassment as defined by the Title IX regulations includes any one of the following:

(1) Quid pro quo - an employee of the college conditioning the provision of an aid, benefit or service of the college on an individual's participation in unwelcome sexual conduct;

(2) Hostile environment - unwelcome conduct on the basis of sex 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;



(3) Sexual assault - a forcible or non-forcible sex offense as defined by the uniform crime reporting system used by the federal bureau of investigation pursuant to 20 U.S.C. 1092(f)(6)(A)(v), including rape, sodomy, sexual assault with an object, fondling, incest and statutory rape. The following definitions prohibit the following behaviors:

(a) Vaginal, anal, or oral sexual intercourse with a person without their consent;

(b) Touching the private body parts of another person for the purpose of sexual gratification without their consent;

(c) Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. In Ohio, division (A) of section 3101.01 of the Revised Code provides that individuals nearer of kin than second cousins may not marry;

(d) Sexual intercourse with a person who is under the statutory age of consent. In Ohio, division (A)(1)(b) of section 2907.02 of the Revised Code provides that no person may have sex with a child under the age of thirteen. Division (A) of section 2907.04 of the Revised Code provides that no person over the age of eighteen may have sex with a child under the age of sixteen.

(4) Dating violence - violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship.

(5) Domestic violence - felony or misdemeanor crimes of violence on the basis of sex committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner or by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction. Domestic violence also includes felony or misdemeanor crimes of violence committed by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction, where such conduct is on the basis of sex.



(6) Stalking - engaging in a course of conduct, on the basis of sex, directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

Stalking and domestic violence, as defined in this paragraph, that are not conducted on the basis of sex will be addressed by human resources.

For reported behavior to qualify as Title IX sexual harassment under this rule, in addition to meeting the elements of the specific type of sexual harassment, as defined in this paragraph, it must meet all of the following threshold requirements, as determined by the Title IX coordinator and as mandated by federal law:

- (a) The conduct must have occurred against a person in the United States;
- (b) The conduct must have occurred within the college's education program or activity. For purposes of this provision, this means that the conduct must have occurred either (i) in a location, event, or circumstances over which the college exercised substantial control over both the respondent and the context in which the sexual harassment occurs; or (ii) in relation to a building owned by a student organization that is officially recognized by the college; and
- (c) The complainant must be participating in or attempting to participate in the education program or activity of the college at the time the formal complaint is filed.

(7) Conduct that does not meet these threshold requirements may still be addressed by the college through its code of conduct or employee handbook.

(H) Reporting prohibited conduct

Anyone who feels they are in immediate danger are strongly encouraged to call 911.

(1) Making a report to the college

The college strongly encourages individuals who have experienced or witnessed prohibited conduct



to file a report with the Title IX coordinator as soon as reasonably possible. Making a report does not require further action on the part of the reporter.

Employees of the college who become aware of behavior that may constitute prohibited conduct are required to report all information regarding such prohibited conduct to the Title IX coordinator as soon as reasonably possible (see paragraph (J) of this rule).

Any person may report potential prohibited conduct in person, by mail, by telephone or by email, using the contact information listed for the Title IX coordinator, or by any other means that result in the Title IX coordinator receiving the person's verbal or written report. Such reports may be made at any time, including during non-business hours.

MTC's Title IX coordinator: Cretia Johnson, Title IX coordinator, 1467 Mount Vernon avenue, Marion, Ohio 43302, johnsonc@mtc.edu, (740) 386-4195.

The Title IX coordinator and/or the deputy Title IX coordinators will consult with the complainant to determine if it is appropriate to make a formal complaint. Anonymous reports may be made, but depending on the level of information provided, anonymous reporting may limit the college's ability to respond. Employees who are required to make reports under this rule are not permitted to make such reports anonymously. If the anonymous report includes a crime, it will be counted in the college's crime statistics.

Any student, employee, or third party who reports that they have experienced sexual assault, domestic violence, dating violence, or stalking on the basis of sex shall be provided with a written explanation of their rights, options, and available services. These rights and options include the opportunity to access specific support services at the college and in the community, such as assistance with changing academic and working arrangements upon request. Appropriate college officials will determine if the request is reasonable. Such rights also apply to the respondent.

Please note, a report of prohibited conduct does not automatically result in a formal investigation. The Title IX coordinator will need to evaluate whether the report alleges sufficient information to meet the jurisdictional requirements.



Students or employees who knowingly or maliciously make a false or frivolous allegation of prohibited conduct will be subject to sanctions from the college. Student sanctions will follow procedures outlined in administrative policy 420 - "Student Disciplinary Action" and employee sanctions will follow administrative policy 306 - "Disciplinary Action." Where it is alleged that the Title IX coordinator has engaged in prohibited conduct, such report may be directed to the vice president for business affairs, who will designate an appropriate individual to act as the Title IX coordinator for purposes of that report.

(2) Reporting options

When an individual experiences prohibited conduct, the following options are available to them, which can be explained in more detail by the Title IX coordinator:

- (a) If the prohibited conduct constitutes a crime, the option to notify college law enforcement and/or local law enforcement. The college can help facilitate such notification;
- (b) The option to seek a protection order and/or other legal orders through a court with jurisdiction, which will be enforced by the college as may be required by the order;
- (c) The option to seek medical attention, counseling services or other confidential resources (see paragraph (I) of this rule);
- (d) The option to file a report with the Title IX coordinator and request appropriate supportive measures;
- (e) The option to report prohibited conduct to an employee who is required to file the information with the Title IX coordinator, except where the disclosure is made in the context of a confidential relationship (e.g., counselor-patient);
- (f) The option to file a formal complaint with the Title IX coordinator to pursue informal resolution or a formal investigation;
- (g) The option to report prohibited conduct using email address titleix@mtc.edu, sent directly to the



Title IX coordinator and all Title IX deputy coordinators.

A complainant may choose multiple options, and the options they choose may change over time. For example, a complainant may choose initially to proceed with a criminal investigation, or this process, both or neither. Regardless of those choices, the complainant may seek a protection order, confidential resources, supportive measures, and/or file a formal complaint.

(3) Making a report to law enforcement

Where an individual has been subjected to violence or other criminal acts, the college encourages such individuals to seek assistance from medical providers and/or law enforcement immediately after the incident, whether or not the complainant intends to pursue criminal charges. This is to assist in the preservation of evidence and to begin a timely response by law enforcement. Preserving evidence may later assist in proving that an alleged criminal offense occurred, or it may be helpful in obtaining a protection order if one is desired.

The Title IX coordinator can assist in notifying law enforcement authorities if the complainant chooses. Complainants also may decline to notify such authorities. Also see paragraph (J) of this rule regarding Ohio's felony reporting law.

(I) Confidentiality and privacy

Confidentiality and privacy are two distinct concepts under this rule.

Privacy means that information will be protected except to the extent it is necessary to disclose information in order to respond to a report, effectuate supportive measures, facilitate an informal resolution, administer a formal complaint under this rule, provide remedies to those who experience prohibited conduct and ensure the safety of individuals and the college community. The Title IX coordinator and college employees are expected to respect the privacy of the parties and witnesses to a report or formal complaint and share information only on a "need to know" basis. Personally identifiable information regarding students is further protected by the federal Family Educational Rights and Privacy Act (FERPA), but sharing information as required by this rule is permitted under that act.



Confidentiality means that information will not be shared by the individual who receives the information except in limited circumstances, such as where there is an imminent threat of harm to the individual or to others, or where there is knowledge or suspicion of child abuse (including sexual abuse and molestation) or neglect.

(1) Individuals seeking confidential assistance through college resources may contact the following:

(a) Student resource center - (740) 386-4200 (currently enrolled students only)

(b) Matrix EAP counselors - (888) 628-4824 (employees)

(c) Mike Stuckey - (740) 386-4171

(2) Individuals seeking confidential assistance outside of the college may contact the following:

(a) Mental health providers

(i) Marion area counseling center - (740) 387-5210

(ii) Center street community health center behavioral health services - (740) 751-6380

(b) Domestic violence and intimate partner violence assistance through the following:

(i) Ohio domestic violence network - <https://www.odvn.org/find-help/>

(c) 24/7 hotlines:

(i) Child help national child abuse hotline - (800) 422-4453

(ii) Crisis text line - text "HOME" to 741741

(iii) Gay, lesbian, bisexual and transgender national hotline - (888) 843-4564



(iv) National domestic violence hotline - (800) 799-7233

(v) National human trafficking hotline - (888) 373-7888

(vi) National sexual assault hotline - (800) 656-HOPE

(vii) National suicide prevention lifeline - (800) 273-8255

(viii) National teen and young adult dating abuse helpline - (866) 331-9474 or text "loveis" to 22522

(ix) Ohio hispanic coalition domestic violence hotline - (614) 746-3534 (Spanish and English)

(x) Ohio sexual violence helpline - (844) OHIO-HELP

(d) The college is required by the Clery Act to keep certain publicly available records regarding crimes that are reported on or near campus property. Such records do not include personal information regarding victims of such crimes, to the extent permissible by law.

(J) Employee and volunteer reporting responsibilities

All employees are required to notify the Title IX coordinator or, in absence of the Title IX coordinator, one of the deputy Title IX coordinators upon learning of prohibited conduct.

Although employees cannot provide confidentiality when they learn of potential prohibited conduct, they will maintain the privacy of those involved to the greatest extent possible.

All individuals, including employees and volunteers of the college, are required by Ohio law to report felonies, including sexual assault, to law enforcement unless they learn of such conduct in the context of a confidential relationship, such as counselor-patient treatment. The Title IX coordinator can assist in facilitating this reporting upon request.



All employees and volunteers of the college are required to report potential sexual abuse and molestation of a minor to law enforcement or child protective services. The Title IX coordinator can assist in facilitating this reporting upon request.

Employees and volunteers who fail to comply with these reporting responsibilities are subject to disciplinary action, up to and including termination of employment.

(K) Supportive measures

Upon receipt of a report of potential prohibited conduct, the Title IX coordinator shall offer the complainant reasonably available and appropriate supportive measures. The Title IX coordinator also shall offer supportive measures to respondents. The supportive measures that are offered to the parties may evolve as circumstances change, and either party may request different or additional supportive measures from the Title IX coordinator at any time. It is not necessary for a party to file a formal complaint or make a report to law enforcement in order to receive supportive measures.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the recipient of the measures. The measures shall be designed to restore or preserve equal access to the college's education program or activity, including employment, without unreasonably burdening the other party. Supportive measures may be designed to protect the safety of a party or of the college's educational, and/or working environment, or they may be designed to deter prohibited conduct. The Title IX coordinator is responsible for determining and coordinating the effective implementation of supportive measures.

Examples of supportive measures that may be offered include:

- (1) Counseling;
- (2) Extensions of deadlines or other course-related adjustments;
- (3) Modifications of work or class schedules;



- (4) Campus escort services;
- (5) Mutual restrictions on contact between the parties;
- (6) Changes in work locations;
- (7) Increase security and monitoring of certain areas of the campus;
- (8) Changes to academic and working situations;
- (9) Other similar measures as deemed appropriate by the Title IX coordinator.

College employees are expected to keep supportive measures private except as may be necessary to provide the supportive measures.

The Title IX coordinator is responsible for maintaining records of all supportive measures that are given to each party, information about which measures were requested by a party but not offered and the rationale for such decision, and information about which supportive measures were offered but rejected by a party. If the college does not offer supportive measures to a party, it must document the reasons why such response was reasonable in light of the known circumstances

As required by the Clery Act, the college provides written notification to student and employee complainants about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available for complainants who report being victims of crimes.

(L) Emergency removal

The college retains the authority to remove individuals who are alleged to have committed prohibited conduct under this rule from its program(s) or activity(ies) on an emergency basis. If a respondent is alleged to have committed sexual harassment, the college will undertake an individualized safety and risk analysis in order to determine if there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of prohibited



conduct which justifies a removal.

If the college determines such removal is necessary, the respondent who is alleged to have committed sexual harassment will be provided notice and an opportunity to challenge the decision immediately following the removal.

(M) Administrative leave

The college retains the authority to place a non-student employee respondent on paid administrative leave during this rule. Paid administrative leave is not considered to be an "emergency removal" for purposes of paragraph (L) of this rule.

(N) Formal investigation and decision-making process

(1) Overall time frame

The time frame for the formal investigation and resolution process begins with the filing of a formal complaint. The process will be concluded within a reasonably prompt manner, and no longer than sixty business days after the filing of the formal complaint. However, the process may be extended for good cause, including but not limited to the unavoidable absence of a party, a party's advisor, or a witness; the complexity and scope of the allegations; the complexity and amount of evidence submitted for consideration; the number of witnesses involved; concurrent law enforcement activity; intervening college breaks or closures; or the need for language assistance or accommodation of disabilities. In the event that an extension is granted by the Title IX coordinator, the parties will be notified by written communication of the reason(s) for the delay and the expected adjustment in time frames.

Parties may request the extension of deadlines within this process for good cause provided that the requester provides reasonable notice and the delay does not overly inconvenience other parties. The Title IX coordinator shall have sole discretion to determine such extensions, which if granted, shall be provided to the parties to the extent applicable.

(2) Filing a formal complaint



To file a formal complaint, the complainant must file a signed written document (which may be electronic) that alleges prohibited conduct against a respondent and requests that the college investigate the allegation of prohibited conduct. Such complaints must be filed with the Title IX coordinator in person, by mail, or by email. If a complainant is not eighteen years of age and is not enrolled in the college, the college must obtain the voluntary, written consent of a natural parent, guardian, or an individual acting as a parent in the absence of a parent or guardian before proceeding with an investigation.

Upon receipt of a formal complaint from a complainant, the Title IX coordinator will conduct an initial assessment to determine whether the formal complaint properly alleges prohibited conduct under this rule. The Title IX coordinator may gather additional information if necessary to make such a determination. Formal complaints alleging prohibited conduct will be handled according to this rule. The Title IX coordinator also may consolidate potential violations of other college policies into a formal complaint where they relate to the alleged prohibited conduct and the Title IX coordinator determines, in their sole discretion, that it is appropriate to do so under the circumstances. Formal complaints that do not allege any prohibited conduct under this rule will be addressed by the appropriate policy and/or forwarded to the appropriate college office, if any, for further consideration.

If a formal complaint is brought against a respondent that is not subject to substantial control by the college, such as where the respondent is not an employee or student, the Title IX coordinator may, in their sole discretion, consult with the campus public safety office to determine if a criminal trespass order is appropriate and/or take other steps to protect the safety of the campus in lieu of any further investigation or decision-making. In such situations, all parties simultaneously shall be notified by written communication that the formal complaint has been dismissed and the reasons for dismissal. The Title IX coordinator still shall offer appropriate supportive measures to the complainant pursuant to this rule.

The Title IX coordinator also may file a formal complaint upon receiving a report that potential prohibited conduct has occurred. Factors to consider when making this decision include the preferences and concerns of the complainant, the nature and circumstances of the allegations in the report, the severity and impact of the reported conduct, allegations of repeated behavior by the



respondent, whether the respondent has admitted to the conduct, whether there are multiple complainants or respondents, whether the respondent has threatened further prohibited conduct or violence against the complainant or others, whether the respondent is an employee and whether the college possesses independent means to obtain relevant evidence if the complainant is not willing or able to participate. If a complainant requests that no formal action be taken, the college will balance that request with its responsibility to protect the college community from prohibited conduct. The Title IX coordinator will inform the complainant of whether the college will take formal action on the formal complaint by written communication. If the Title IX coordinator decides to take formal action, the Title IX coordinator will inform the complainant of this decision prior to notifying the respondent of the formal complaint. If the complainant chooses not to participate in the formal complaint and the process that follows it, they are still entitled to receive all notices issued under this rule.

The Title IX coordinator may consolidate formal complaints alleging prohibited conduct against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of prohibited conduct arise out of the same facts or circumstances.

The Title IX coordinator, or designee, will acknowledge receipt of the formal complaint within two business days.

Nothing in this rule prevents a complainant from seeking the assistance of law enforcement alongside the appropriate college process. If a formal complaint is filed in relation to a concurrent law investigation, the college will coordinate with law enforcement to ensure its procedures do not interfere with that investigation.

The Title IX coordinator may, in their sole discretion, dismiss a formal complaint or any of the allegations therein if at any time during the investigation or decision-making process:

- (a) A complainant notifies the Title IX coordinator in writing that they would like to withdraw the formal complaint or any allegations therein;
- (b) The respondent is no longer enrolled in or employed by the college; or



(c) Specific circumstances prevent the college from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If a formal complaint is dismissed, the college will promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties. Where a formal complaint is dismissed, the college may take action under another provision of its policies and/or codes of conduct.

(3) Title IX hearing eligibility

When a formal complaint is filed, the Title IX coordinator will determine whether the matter is potentially eligible for a Title IX hearing.

Under the federal Title IX regulations, only certain cases are eligible for a Title IX hearing. To be eligible for a Title IX hearing, all of the following must be true:

(a) The formal complaint was filed by a complainant who, at the time of filing, was either participating in or attempting to participate in a college education program or activity, including employment;

(b) The formal complaint alleges sexual harassment;

(c) The sexual harassment is alleged to have occurred against a person in the United States;

(d) The sexual harassment is alleged to have occurred within the college's education program or activity.

Sexual harassment and/or other prohibited conduct under this rule that does not meet the listed criteria will be addressed by the non-Title IX resolution process described in paragraph (N)(8) of this rule.

This determination of whether the matter will proceed to a Title IX hearing or a non-Title IX resolution will be finalized after the investigative report is submitted, as described in this rule.



(4) Notice to the parties

Where a formal complaint has been determined through an initial assessment to properly allege prohibited conduct, the Title IX coordinator, or designee, shall provide written notice to the parties that shall include the following:

(a) Notice of this rule.

(b) Notice of the allegations of prohibited conduct, including sufficient details known at the time of the notice and with sufficient time to prepare a response before any initial interview. Such notice shall contain:

(i) The identities of the parties involved in the incident(s), if known;

(ii) The allegations of prohibited conduct;

(iii) The date and location of the reported incident(s), if known.

(c) A statement that the respondent is presumed not responsible for the reported conduct and that a determination regarding responsibility is made at the conclusion of the process.

(d) A statement that the parties may have an advisor of choice, who may be an attorney, accompany them to any related meeting or proceeding under this rule.

(e) A statement that the parties may inspect and review evidence as provided in this rule.

(f) A statement that the parties may suggest witnesses and provide statements and evidence as permitted by this rule.

(g) A statement that the allegations may be eligible for a Title IX hearing under this rule, or whether they may be subject to a "mandatory dismissal" from the Title IX hearing process under this rule.



(h) Notice that the college prohibits knowingly making false statements or knowingly submitting false information during the process of filing and addressing a formal complaint.

(i) Notice of how to request supportive measures under this rule.

(j) A statement that retaliation is prohibited under this rule.

(k) Information about how to request reasonable accommodations relating to a disability.

If, during the course of an investigation, the Title IX coordinator determines it is appropriate to include additional allegations in the investigation, the Title IX coordinator, or designee, will provide written notification of those additional allegations and sufficient details of such allegations to the parties.

(5) Role of the advisor

Each party may bring an advisor of their choice with them to all meetings and/or proceedings under this rule. The advisor may be an attorney, or another individual that the party chooses. Advisors may not be disruptive to the process. At any point, advisors may be removed or dismissed from the process for disruptive behavior or where they do not abide by the restrictions on their participation. Except as described below with regard to live hearings in paragraph (N)(9) of this rule, the advisor's role is limited to providing advice and support to the party.

(6) Informal resolution

After the initiation of a formal complaint, if all parties voluntarily consent by written communication, the college may determine whether it is appropriate to assist the parties in an informal resolution process. An informal resolution process is available at any time prior to reaching a determination regarding responsibility, except that federal regulations prohibit informal resolution in the cases of reports of sexual harassment brought by a student against a college employee.

Before initiating an informal resolution process, the college will: provide the parties a written notice that an informal resolution process is available to them; and obtain the parties' voluntary, written



consent to the informal resolution process. The written notice to the parties will disclose the allegations, the requirements of the informal resolution process (described in this paragraph) and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

The college does not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, the waiver of the right to an investigation and adjudication of formal complaints under this rule. Similarly, the college will never require the parties of a formal complaint under this rule to participate in an informal resolution process.

The college's informal process provides any party, at any time prior to agreeing to a resolution, the right to withdraw from the informal resolution process and resume the formal resolution process with respect to the formal complaint.

When allegations of prohibited conduct can be resolved through informal resolution by mutual consent of the parties and on a basis that is acceptable to the Title IX coordinator, the resolution process shall be considered final and binding and there will be no subsequent process or appeal.

(7) Investigation

formal complaints shall be investigated by a trained investigator who is free from bias or conflicts of interest. The Title IX coordinator, in their discretion, may assign more than one investigator to a case and may perform the role of investigator while carrying out the duties of Title IX coordinator. The investigator(s) shall gather relevant evidence sufficient to reach a determination regarding responsibility, as the burden of proof and the burden of gathering evidence is an obligation that rests on the college and not the parties.

(a) Submission of evidence and witnesses

The parties each have the opportunity to be interviewed by the investigator(s), submit relevant evidence and witness names and contact information to the investigator(s) and provide a written statement to the investigator(s) if they choose. The parties may present fact and expert witnesses to the



investigator(s).

Each party shall be provided with written notice of the date, time, location, participants and purpose of all investigative interviews or other meetings that they are expected to attend, with sufficient time for the party to prepare to participate. Each party may bring an advisor to all investigative meetings or interviews. Except as described with regard to live hearings in paragraph (N)(9) of this rule, the advisor's role is limited to providing advice and support to the party.

(b) Review of evidence

When the investigator(s) believes they are ready to prepare the investigation report, the Title IX coordinator will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have ten calendar days to submit a written response. The parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the college does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source. The college will not consider or provide for inspection and review of evidence which the college knows was illegally or unlawfully created or obtained.

Parties and their advisors are not permitted to download, print, share or otherwise disseminate any of the evidence subject to inspection and review. Parties who download, print, share or otherwise disseminate the evidence will be subject to sanctions or disciplinary actions determined by the Title IX coordinator.

(c) Preparation of investigative report and party response

The investigator(s) will review the parties' written responses, conduct any follow-up investigation the investigator(s) deems appropriate and prepare an investigative report that summarizes relevant evidence. The investigative report will not include a summary of evidence not considered to be relevant. If the complaint involves multiple complainants, multiple respondents, or both, the college may issue a single investigative report.



Each party and their advisor shall receive a copy of the investigative report for their review and written response, at least ten calendar days prior to a hearing or other time of determination regarding responsibility. If a party disagrees with the investigator's determination about which evidence is relevant, the party may include arguments for or against relevance of evidence in their written response.

(d) Final determination as to hearing eligibility

The investigative report will include an assessment as to whether the reported conduct is eligible for a Title IX hearing. Under the federal Title IX regulations, only certain cases are eligible for a Title IX hearing. To be eligible for a Title IX hearing, all of the following must be true:

- (i) The formal complaint was filed by a complainant who, at the time of filing, was either participating in or attempting to participate in a college education program or activity, including employment;
- (ii) The formal complaint alleges sexual harassment;
- (iii) The sexual harassment is alleged to have occurred against a person in the United States; and
- (iv) The sexual harassment is alleged to have occurred within the college's education program or activity.

The Title IX coordinator will review the assessment and determine whether they concur with the assessment of the investigator(s) and whether a Title IX hearing will be held.

If the Title IX coordinator determines that none of the conduct, if proven, meets the requirements for a Title IX hearing, the Title IX coordinator shall notify the parties that the case is subject to mandatory dismissal from the Title IX hearing process found in this rule and the case shall proceed to a non-Title IX resolution pursuant to paragraph (N)(8) of this rule.

If the Title IX coordinator determines that the case is eligible for a Title IX hearing, the case shall proceed to a Title IX hearing pursuant to paragraph (N)(9) of this rule.



The Title IX coordinator's decision regarding Title IX hearing eligibility may be appealed to the vice president of business affairs within three business days of receipt of the decision. The vice president's decision is final and binding.

(8) Non-Title IX resolution

Cases that do not proceed to a Title IX hearing will be resolved through the non-Title IX resolution process. Such process is typically completed within thirty calendar days of referral for decision, except where extensions are appropriate for good cause as determined by the Title IX coordinator in consultation with the student conduct officer, if the respondent is a student, or human resources, if the respondent is an employee. The Title IX coordinator will give written notice of the reason for the extension.

Where the respondent is a student or former student, the case shall be referred to the student conduct officer for resolution through the student discipline process, in accordance with administrative policy 420 - "Student Code of Conduct and Disciplinary Action."

Where the respondent is an employee or former employee, the case shall be referred to human resources, who shall resolve it pursuant to the employee discipline process, in accordance with administrative policy 306 - "Disciplinary Action" and other relevant policies.

The decision-maker in this process will inform the respondent and the complainant, as appropriate, of the determination and options to appeal, in writing.

(9) Title IX hearing

The college will hold a live hearing after the investigation, where the case is determined to be eligible for such hearing. Hearings are typically held within thirty calendar days of referral for hearing, except where extensions are appropriate for good cause as determined by the Title IX coordinator with written notice to both parties of the reason for the extension.

The Title IX coordinator will appoint a trained decision-maker (hereinafter "hearing officer") to



serve as decision maker during the hearing. The hearing officer will not be the Title IX coordinator, the investigator(s) who investigated the allegations, or the individual coordinating informal resolution. The hearing officer is under an obligation to objectively evaluate all relevant evidence both inculpatory and exculpatory. The hearing officer has the right to ask questions and elicit information from parties and witnesses on the hearing officer's own initiative.

The college will not limit the choice or presence of an advisor for complainant or respondent in any meeting or related proceeding. Advisors are required to abide by college restrictions regarding the extent to which they may participate in proceedings, and any restrictions will apply equally to the parties. If a party's advisor refuses to comply with restrictions set by the college, the college may require the party to use a different advisor.

At least five business days prior to the hearing, a separate pre-hearing conference will be held with each party, the party's advisor, the Title IX coordinator and the hearing officer. At the pre-hearing conference, the party and advisor must disclose the witnesses that will be requested and the evidence that will be submitted for consideration. Evidence and witnesses may only be considered at the hearing if they were submitted to the investigator, unless they were previously unknown or unavailable to the party during the investigation. The hearing officer will decide whether to grant any requests for new evidence and new witnesses at the pre-hearing conference. The hearing officer also will discuss guidelines for appropriate behavior and decorum during the hearing. The parties are not required to attend but are encouraged to do so.

Hearings will be conducted with all parties physically present in the same geographic location or, at the college's discretion, any or all parties, witnesses and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

The college will create a recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

At the live hearing, the hearing officer will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Before a complainant, respondent, or witness answers a question, the hearing officer will first determine whether the question is relevant and explain any decision to exclude a question as not



relevant.

The hearing officer is not required to give a lengthy or complicated explanation of a relevancy determination during the hearing and may send to the parties after the hearing any revisions to the hearing officer's explanation that was provided during the hearing.

Cross-examination at the live hearing will be conducted directly, orally and in real time by the party's advisor of choice and never by a party personally. All questioning will be relevant, respectful and non-abusive. No party will be yelled at or asked questions in an abusive or intimidating manner.

If a party or witness does not submit to cross-examination at the live hearing, the hearing officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility. However, a respondent's alleged verbal conduct that itself constitutes the reported prohibited conduct at issue is not considered the respondent's "statement" and therefore may be considered even if the respondent does not submit to cross-examination. Similarly, video or audio evidence showing the conduct alleged within a complaint may be considered, even if the party does not submit to cross-examination. The hearing officer will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

If a party does not have an advisor present at the live hearing, the college will provide, without fee or charge to that party, an advisor of the college's choice to conduct cross-examination on behalf of that party. That advisor may be, but is not required to be, an attorney.

Relevancy determinations will be made pursuant to paragraph (N)(10) of this rule. Credibility will be considered pursuant to paragraph (N)(11) of this rule. Decisions will be prepared pursuant to paragraph (N)(12) of this rule. Sanctions, if any, will be determined pursuant to paragraph (N)(13) of this rule. Additional remedies, if any, will be determined pursuant to paragraph (N)(14) of this rule.

(10) Relevance

Relevant evidence is evidence that tends to make a fact that is important to the case either more probable or less probable. Relevant questions are those questions that are designed to elicit relevant



evidence.

The following may be considered irrelevant:

- (a) Repetitive or duplicative questions or evidence;
- (b) Information that is protected by a legally recognized privilege, such as attorney-client privilege;
- (c) Questions and evidence about the complainant's sexual predisposition or prior sexual behavior, unless:
 - (i) Such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant; or
 - (ii) The questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent;
- (d) Any party's medical, psychological and similar records, unless the party has given voluntary, written consent for their use in the process.

The college will not exclude relevant evidence because such relevant evidence may be unduly prejudicial, concern prior bad acts (unless excluded in this paragraph) or constitute character evidence. However, the hearing officer may objectively evaluate such evidence by analyzing whether that evidence warrants a high or low level of weight or credibility.

Pattern evidence may be determined to be relevant by the hearing officer where the respondent was previously found to be responsible for the offense, the previous incident was substantially similar to the present allegation and the information indicates a pattern of behavior and substantial conformity with that pattern by the respondent.

(11) Credibility

The hearing officer will evaluate all admissible, relevant evidence for weight and credibility. The



degree to which any inaccuracy, inconsistency, or implausibility in a narrative provided by a party or witness should affect a determination regarding responsibility is a matter to be decided by the hearing officer, either after reviewing the case file in the case of non-hearing resolution, or after having the opportunity to ask questions of parties and witnesses, and to observe how parties and witnesses answer the questions posed by the other party in the case of a hearing. Corroborating evidence is not required.

Credibility determinations are not based solely on observing demeanor, but also are based on other factors such as the level of specific details and consistency of each person's account, whether corroborative evidence is lacking where it should logically exist and the inherent plausibility of the statement. Credibility determinations will not be based on an individual's status as a complainant, respondent, or witness.

The hearing officer should evaluate the answers given by anyone testifying in context, including taking into account that the person testifying may experience stress while trying to answer questions.

If a party or witness does not submit to cross-examination at the live hearing, the decision-maker will not rely on any statement (factual assertion to prove or disprove the allegations) of that party or witness in reaching a determination regarding responsibility.

(12) Decision

The hearing officer will conduct an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence, and issue a written determination of responsibility for prohibited conduct using a "preponderance of the evidence" standard. The same standard of evidence applies to all formal complaints regardless of the status or title of the respondent.

The determination of responsibility will include:

- (a) Identification of the allegations potentially constituting prohibited conduct;
- (b) A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site



visits and methods used to gather other evidence and hearings held;

(c) Findings of fact supporting the determination;

(d) Conclusions regarding the application of this rule to the facts;

(e) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions or disciplinary actions the college imposes on the respondent (see paragraph (N)(13) of this rule), and whether remedies will be provided by the college to the complainant (see paragraph (N)(14) of this rule), and;

(f) The college's procedures and permissible bases for the complainant and respondent to appeal (see paragraph (O) of this rule).

The nature of remedies, if any, will not be included within the determination. The determination will be provided to the parties simultaneously. The determination becomes final only after the time period for appeal has expired or, if a party does file an appeal, after the appeal decision has been sent to the parties.

(13) Sanctions

The college recognizes that not every case of prohibited conduct is alike in severity. Therefore, the college reserves the right to consider a range of reasonable sanctions. This range includes, but is not limited to, a formal warning, receiving a reprimand in the course of employment, mandatory training, behavioral contracts, administrative referrals, community service, loss of privilege, disciplinary probation, removal from a course, restitution, facility suspension/expulsion, banishment from college property, revocation of admission, revocation of degree, suspension, expulsion, employment demotion and/or termination of employment.

Where a respondent is found to have engaged in sexual assault, dating violence, domestic violence (regardless of whether based on sex), or stalking (regardless of whether based on sex), the sanction will generally result in either suspension or permanent removal from the college.



A respondent's prior disciplinary record will be taken into consideration in assigning sanctions. More than one sanction may be imposed for any single violation. Any sanction imposed will be in effect on all college-owned or - controlled property, and at all events or functions sponsored by or under the supervision of the college, unless otherwise provided in the written decision.

(14) Remedies

Where a determination of responsibility for prohibited conduct is made, the college will provide remedies to a complainant designed to restore or preserve equal access to the college's education program or activity, including employment. Such remedies may include the same individualized services provided as supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. The Title IX coordinator is responsible for effective implementation of remedies.

Where the final determination has indicated that remedies will be provided, the complainant can then communicate separately with the Title IX coordinator, or designee, to discuss what remedies are appropriately designed to preserve or restore the complainant's equal access to education. Remedies for a complainant which do not affect the respondent must not be disclosed to the respondent.

(O) Appeals

Any party may appeal the determination regarding responsibility, or the college's dismissal of a formal complaint or any allegations therein. The parties will have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

The appeal must be made in writing to the Title IX coordinator within five calendar days of the written notice of the outcome. The appeal must identify the grounds for appeal and must contain information in support of such grounds. The college will notify the other party in writing when an appeal is filed and provide access to the appeal. The non-appealing party may submit a written response within five calendar days of receiving access to the appeal from the Title IX coordinator.

The only appropriate grounds for appeal are:



- (1) Procedural irregularity that affected the outcome of the matter;
- (2) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter, and;
- (3) The Title IX coordinator, investigators, or hearing officer had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Disagreement with the results, by itself, is not sufficient grounds for an appeal. All grounds for appeal will be available to all parties.

The Title IX coordinator shall appoint a trained appeals officer to issue a written decision describing the result of the appeal and the rationale for the result and provide the written decision simultaneously to the parties. The appeals officer will not be the Title IX coordinator, or designee, who coordinated the case, the investigator(s) who investigated the case or the hearing officer who reached a decision in the case. The appeals officer is typically an administrator of the college.

The appeals officer shall issue a written decision within ten business days of receiving the appeal(s) and response(s) from the Title IX coordinator. Extensions may be granted by the Title IX coordinator for good cause and with written notice provided to the parties, including the reason for the extension. The appeals officer's decision will include the result of the appeal and the rationale for the result. The decision will be provided simultaneously to the parties and is final and binding on the parties.

(P) Training, impartiality and bias

The Title IX coordinator, investigator(s), hearing officer(s), appeals officer(s), and facilitator of informal resolution for each case must be trained as required pursuant to the Title IX regulations and, if applicable, pursuant to the Clery Act regulations.

Such individuals must not have a conflict of interest or bias for or against complainants or respondents generally, or for or against an individual complainant or respondent. An individual's



current job title, professional qualifications, past experience, identity, or sex shall not automatically indicate bias. The Title IX coordinator will apply an objective, common sense approach to evaluating whether a particular person serving in a Title IX role is biased and will exercise caution not to apply generalizations that might unreasonably conclude that bias exists.

(Q) Retaliation

Retaliation is strictly prohibited and takes the following forms:

- (1) Intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by these procedures or by Title IX and its implementing regulations;
- (2) Intimidating, threatening, coercing, or discriminating against any individual because the individual has made a report or complaint, testified, assisted, participated, or refused to participate in any manner in an investigation, proceeding, or hearing under these procedures or under Title IX and its implementing regulations; and
- (3) Pursuing charges against an individual for code of conduct or disciplinary violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by this rule or under Title IX and its implementing regulations.

The exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a code of conduct or disciplinary violation for making a materially false statement in bad faith in the course of any portion of this rule does not constitute retaliation. A determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith.

An allegation of retaliation as defined in this rule will be addressed by the Title IX coordinator.

(R) Record-keeping



The Title IX coordinator shall ensure that the college maintains the following records for a period of seven years after a case file is closed:

- (1) Records of each investigation regarding sexual harassment, including any determination regarding responsibility and any audio or audiovisual recording or transcript of the hearing, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the college's education program or activity;
- (2) Any appeal of a decision regarding sexual harassment and the result therefrom;
- (3) Any informal resolution of a formal complaint regarding allegations of sexual harassment and the result therefrom;
- (4) All materials used to train the Title IX coordinator, investigators, decision-makers and any person who facilitates informal resolutions. Such materials shall be made available on the college's website;
- (5) Information regarding the college's response to any reports of sexual harassment that may meet the hearing eligibility requirements, including any supportive measures provided by the college. The college's documentation must include the basis of its conclusion that its response was not deliberately indifferent, as well as documentation that measures were designed to restore or preserve equal access to the college's education program or activity;
- (6) If the college does not provide a complainant with supportive measures in a case involving allegations of sexual harassment, then the college must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

(S) Disability accommodations

This rule does not alter any institutional obligations under federal disability laws, including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX coordinator at any point before or during this rule that do not fundamentally alter the process. The Title IX coordinator



may consult with the director of disability services or with the college's ADA coordinator when considering a request for accommodations. The Title IX coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the parties, even when the parties may be receiving accommodations in other institutional programs and activities.

(T) Academic freedom/First Amendment guidelines

The college is committed to providing a safe, anti-harassing, and nondiscriminatory environment that protects the civil rights of individuals. The college also recognizes academic freedom and the constitutional protections of the First Amendment.

This rule is not intended to restrict serious discussion of relevant controversial issues in a training or academic situation. In order to prevent claims that course or training content is discriminatory, harassing, or offensive, it is highly recommended that participants in such discussions are provided with a disclosure that the content may be controversial.

(U) Education programs

The college offers education programs to promote the awareness of prohibited conduct. These programs include prevention and awareness.