

**TITLE IX, ANTI-DISCRIMINATION, ANTI-HARASSMENT, AND
ANTI-RETALIATION POLICY AND REPORTING,
INVESTIGATION, AND HEARING MANUAL
FOR ALL FACULTY, STUDENTS, EMPLOYEES, AND THIRD
PARTIES**

BASED ON THE ATIXA 2021 ONE POLICY, TWO PROCEDURES MODEL.
©2021 ATIXA. USED WITH PERMISSION.

TABLE OF CONTENTS

POLICY: Title IX, Anti-discrimination, Anti-harassment, and Anti-

9. Resolution Timeline.....	46
10. Appointment of Investigators	46
11. Ensuring Impartiality	46
12. Investigation Timeline.....	47
13. Investigation Process Delays and Interactions with Law Enforcement	47
14. Investigation Process Steps.....	48
15. Witness Role and Participation in the Investigation.....	49
16. Interview Recording	50
17. Evidentiary Considerations	50
18. Referral for Hearing.....	50
19. Hearing Decision-maker Composition.....	51
20. Additional Evidentiary Considerations in the Hearing	51
21. Hearing Notice.....	52
22. Alternative Hearing Participation Options.....	53
23. Pre-Hearing Preparation	53
24. Pre-Hearing Meetings	54
25. Hearing Procedures.....	55
26. Joint Hearings.....	56
27. The Order of the Hearing – Introductions and Explanation of Procedure.....	56
28. Investigator Presentation of Final Investigation Report	56
29. Testimony and Questioning	57
30. Refusal to Submit to Questioning; Inferences	57
31. Hearing Recordings	58
32. Deliberation, Decision-making, and Standard of Proof	58
33. Notice of Outcome	59
34. Sanctions	60
A. Student Sanctions	60
B. Student Organization Sanctions	61
C. Employee Sanctions/Responsive/Corrective Actions.....	62
35. Withdrawal or Resignation Before Complaint Resolution.....	62
A. Students	62

B. Employees.....	63
36. Appeals.....	64
A. Grounds for Appeal.....	64
B. Sanctions Status During the Appeal.....	65
C. Appeal Considerations.....	66
37. Long-Term Remedies/Other Actions.....	66
38. Failure to Comply with Sanctions and/or Responsive Actions.....	67
39. Recordkeeping.....	67
40. Disability Accommodations in the Resolution Process.....	68
41. Revision of this Procedure Handbook.....	68
APPENDIX A: PROCESS B.....	70
1. Initial Assessment.....	70
2. Resolution Process Pool.....	72
3. Counterclaims.....	74
4. Advisors.....	74
5. Resolution Options.....	76
A. Informal Resolution.....	76
6. Investigation.....	79
7. Determination.....	81
8. Additional Details of the Investigation Process.....	81
9. Sanctions.....	84
10. Withdrawal or Resignation while Charges are Pending.....	86
A. Students.....	86
B. Employees.....	86
11. Appeals.....	87
12. Long-Term Remedies/Actions.....	88
13. Failure to Complete Sanctions/Comply with Interim and Long-Term Remedies/Responsive Actions.....	89
14. Recordkeeping.....	89
15. Disability Accommodation in the Resolution Process.....	90
16. Revision.....	90

POLICY: Title IX, Anti-discrimination, Anti-harassment, and Anti-retaliation Policy

Southeast Community College does not discriminate on the basis of sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, sexual orientation or gender identity, or other protected status in its programs and activities. Reasonable accommodations will be provided to employees with disabilities and to those who are pregnant, have given birth, or have a related medical condition, as required by law.

The College believes that transparency of its policies and procedures related to sex discrimination and sexual misconduct is essential to eliminating these behaviors. The College can accomplish transparency by making all public disclosure requirements related to Title IX and sexual misconduct available on its website, in its catalog, and any other location required by law or regulation.

The goal of this handbook is to provide relevant information regarding the policy and associated procedures. The full text of this policy can be found on the [College Policy and Procedures](#) webpage.

1. Glossary

- x **Advisor** means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the Resolution Process, to advise the party on that process, and to conduct questioning for the party at the hearing, if any.
- x **Appeal Decisionmaker** means the person or panel who accepts or rejects a submitted appeal request, determines whether an error occurred that substantially affected the investigation or original determination, and directs corrective action, accordingly.
- x **College** means Southeast Community College.
- x **Complainant** means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected characteristic, or retaliation for engaging in a protected activity.
- x **Confidential Resource** means an employee who is not a [Mandated Reporter](#) of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- x **Day** means a business day when the College is in normal operation.
- x **Decisionmaker** means the person or panel who hears evidence, determines relevance, and makes the Final Determination of whether this Policy has been violated and/or assigns sanctions.
- x **Education Program or Activity** means locations, events, or circumstances where the College exercises substantial control over both the Respondent and the context in which the harassment, discrimination, and/or retaliation occurs and also includes any building owned or controlled by a student organization that is officially recognized by the College.
- x **Final Determination** is a conclusion by the standard of proof that the alleged conduct did or did not violate policy.
- x **Finding** is a conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a "finding of fact").
- x **Formal Complaint** means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging a Respondent engaged in harassment or discrimination based on a protected characteristic or retaliation for engaging in a protected activity and requesting that the College investigate the allegation(s).
- x **Formal Grievance Process** means "Process A," a method of formal resolution designated by the College to address conduct that falls within the policies included below, and

Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

- x Title IX Team refers to the Title IX Coordinator and any member of the [Grievance Process Pool](#).

supportive measures to stop, remedy, and prevent discrimination, harassment, and retaliation prohibited under this Policy.

All parties will be provided with a comprehensive electronic brochure detailing options and resources, which the Title IX Coordinator may also review with the parties in person.

5. Independence and Conflict of Interest

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact the College's Vice President for Program Development or the Vice President for Access/Equity/Diversity. Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

6.

U.S. Department of Education
One Petticoat Lane
1010 Walnut Street, Suite 320
Kansas City, MO 64106
Customer Service Hotline #: (800) 421-3481
Facsimile: (816) 268-0559
TDD#: (877) 521-2172
Email: OCR.KansasCity@ed.gov
Web: <http://www.ed.gov/ocr>

- x Referral to the Employee Assistance Program if applicable
- x Referral to community-based service providers
- x Student financial aid counseling
- x Education to the institutional community or community-based organizations

from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this Policy to implement or modify an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

The College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, in conjunction with other College officials and applicable laws or regulations, these actions could include, but not be limited to, suspension, expulsion, or termination.

11. Confidentiality/Privacy

Every effort is made by the College to preserve the confidentiality of reports.² The College will not share the identity of any individual who has made a report or Formal Complaint of harassment, discrimination, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of harassment, discrimination, or retaliation; any Respondent; or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA)³ or its implementing regulations,⁴ or as required by law; or to carry out the purposes of 34 C.F.R. Part 106, including any investigation, hearing, or grievance proceeding arising under these policies and procedures.

The College reserves the right to determine which College officials have a legitimate educational need to know.⁵

The College may contact parents/guardians of students to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

Confidentiality and mandated reporting are addressed more specifically [below](#).

12. Jurisdiction

This Policy and the processes outlined in this handbook apply to the College's education program and activities,⁵

The College has adopted the following definition of sexual harassment in order to address the unique environment of an academic community.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. **Sexual Harassment**, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex,⁶ or that is sexual in nature, that satisfies one or more of the following:

- 1) **Quid Pro Quo:**
 - a. an employee of the College,
 - b. conditions⁷ the provision of an aid, benefit, or service of the College,
 - c. on an individual's participation in unwelcome sexual conduct.

- 2) **Sexual Harassment:**
 - a. unwelcome conduct,
 - b. determined by a reasonable person,
 - c. to be so severe, and
 - d. pervasive, and,
 - e. objectively offensive,
 - f. that it effectively denies a Complainant equal access to the College's education program or activity.⁸

- 3) **Sexual Assault**, defined as:

⁶ Including gender identity, gender expression, sexual orientation, and sex stereotypes.

⁷ Implicitly or explicitly.

⁸ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced. This definition is broad enough to potentially encompass forms of sex-based disparate treatment, even if not harassing in nature.

- a. Any sexual act⁹ directed against a Complainant,¹⁰
 - o without their consent, or
 - o instances in which the Complainant is incapable of giving consent.

- b. **Incest:**
 - o Non-forcible sexual intercourse,
 - o between persons who are related to each other,
 - o within the degrees wherein marriage is prohibited by Nebraska law.

⁹ A "sexual act" is specifically defined by federal regulations to include one or more of the following:

Rape: (See [Neb. Rev. Stat. 28-318](#) to -320.01 for Nebraska laws related to sexual assault)

- x Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person,
- x without their consent,
- x including instances where they are incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity."

Sodomy: (See [Neb. Rev. Stat. 28-318](#) to -320.01 for Nebraska laws related to sodomy)

- x Oral or anal sexual intercourse with a Complainant,
- x forcibly, and/or
- x against their will (non-consensually), or
- x not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sexual Assault with an Object: (See [Neb. Rev. Stat. 28-318](#) to -320.01 for Nebraska laws related to sexual assault with an object)

- x The use of an object or instrument to penetrate,
- x however slightly,
- x the genital or anal opening of the body of the Complainant,
- x forcibly, and/or
- x against their will (non-consensually), or
- x not forcibly or against their will in instances in which the Complainant is incapable of giving consent

- c. **Statutory Rape:**¹¹
 - o Non-forcible sexual intercourse,
 - o with a person who is under the statutory age of consent.
- 4) **Dating Violence**¹², defined as:
- a. violence,
 - b. on the basis of sex,
 - c. committed by a person,
 - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 - a) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - b) Dating violence does not include acts covered under the definition of domestic violence.
- 5) **Domestic Violence**,¹³ defined as:
- a. violence,
 - b. on the basis of sex,
 - c. committed by a current or former spouse or intimate partner of the Complainant,
 - d. by a person with whom the Complainant shares a child in common, or
 - e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
 - f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Nebraska, or
 - g. 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 Nebraska.
- 6) **Stalkingn** , 2 5 . 0

The following sections describe the College's reporting options for a Complainant () at the time of the report.

can be provided. However, anonymous notice typically limits the College's ability to investigate, respond, and provide remedies, dependi

- 4) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug law violations

All personally identifiable information is kept private, but statistical information must be shared with the College's Safety & Security team regarding the type of incident and its general location (on or off campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include: student affairs/student conduct staff, College Safety & Security, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student

,214uc(o)2 h(n)10 (af)9.(a)14 (1)Jf (c)4 p(o)2 (r)4 ()10sans a5ce 0122 Td{An)- (,)1 (io)-2 (e)-1 ()12 (s)2 (e)-1 (9

- x The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an Informal Resolution option, or a formal investigation and grievance process.
 - o If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their needs, determine appropriate supports, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
 - o If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for Informal Resolution²¹ and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
 - o If a Formal Grievance Process is preferred by the Complainant, the Title IX Coordinator determines if the alleged misconduct falls within the scope of the 2020 Title IX regulations:
 - f If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address, based on the nature of the complaint:
 - x an incident, and/or
 - x a pattern of alleged misconduct, and/or
 - x a culture/climate issue
 - f If alleged misconduct does not fall within the scope of the Title IX regulations, the Title IX Coordinator determines that the regulations do not apply (and will not apply).

- 1) The conduct alleged in the Formal Complaint would not constitute sexual harassment as defined above, even if proved
- 2) The conduct did not occur in an educational program or activity controlled by the College (including buildings or property controlled by recognized student organizations), and/or the College does not have control of the Respondent
- 3) The conduct did not occur against a person in the United States
- 4) At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in the College's education program or activity²³

Discretionary

The College may dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant is withdrawing the Formal Complaint

- x Likelihood of potential resolution, considering any power dynamics between the parties
- x The nature and severity of the alleged misconduct
- x The parties' motivation to participate
- x Civility of the parties
- x Results of a violence risk assessment/ongoing risk analysis
- x Disciplinary history of the Respondent
- x Whether an emergency removal is needed
- x Skill of the Alternative Resolution facilitator with this type of complaint
- x Complaint complexity
- x Emotional investment/capability of the parties
- x Rationality of the parties
- x Goals of the parties
- x Adequate resources to invest in Alternative Resolution (time, staff, etc.)

The ultimate determination of whether Alternative Resolution is available or successful

is made by the Respondent.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon resolution terms. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.²⁶

When a resolution is accomplished, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

7. Formal Grievance Process Pool

The Formal Grievance Process relies on a pool of administrators²⁷ (“the Pool”) to carry out the process.

The list of Pool members and a description of the Pool can be found at <https://www.southeast.edu/title-ix/>.

A.

- x How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants, and on the basis of sex, race, religion, and other protected characteristics
- x Any technology to be used at a live hearing
- x Issues of relevance of questions and evidence
- x Issues of relevance to create an investigation report that fairly summarizes the evidence

- x A statement informing the parties that the College’s policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- x Detail on how the party may request disability accommodations during the Resolution Process
- x The name(s) of the Investigator(s), along with a process to identify to the Title IX Coordinator, in advance of the interview process, any conflict of interest that the Investigator(s) may have
- x An instruction to preserve any evidence that is directly related to the allegations

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official College records, or emailed to the parties’ College-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

9. Resolution Timeline

The

- x When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- x Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- x Allow each party the opportunity to be heard

Witnesses (as distinguished from the parties) who are employees of the College are strongly encouraged to cooperate with and participate in the College's investigation and Resolution

P(l)xwj [C]44 (e)3 (s 1a1i)4.1 (o)12 (n a)4 (n)10 (d R)8 (es14 (th)10 udc [C]nt8 0 Td()TjEM6.78c -0.005 Tw 13.57
encogtion an Reso(pa)14 dnamoyed Roion (e)3wticsoutticted R octh 173

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is share

The parties may each submit a written impact statement to the Title IX Coordinator prior to the hearing. The Title IX Coordinator will provide the impact statement to the Decision-maker(s) at the sanction stage for consideration by the Decision-maker(s) at that stage of the process when

must have an Advisor present if they intend to cross-examine others. There are no exceptions.

- x A copy of all the materials provided to the Decision-maker(s) about the complaint unless they have already been provided.³⁰
- x An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker(s) will review during any sanction determination.
- x An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- x Whether parties can/cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the College and remain within the 60-90 business-day goal for resolution. Employees who do not have 12-month employment agreement are still expected to participate in Resolution Proceedings that occur during months between the employment agreement.

22. Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party

hearing. The same holds for any relevant evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and/or instruct that the investigation needs to be re-opened to consider that evidence.³¹

The parties will be given a list of the names of the Decision-maker(s) at least five (5) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than two (2) business days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their actual or perceived bias or conflict of interest precludes an impartial hearing of the complaint.

The Title IX Coordinator will give the Decision-maker(s) a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10)-business-day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at a pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

24. Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting(s) with the parties and/or their Advisors and invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration on a pre-hearing

witnesses will then be excused. The Investigator(s) will remain present for the duration of the hearing.

26 Joint Hearings .

In hearings involving more than one Respondent and/or involving3 -1dT/Artifici-e-4 (an)6 (o)-2 (n)6 (e)-1 (R)4

is available through the investigation and hearing in making the ultimate determination of responsibility. The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared. It is otherwise considered off-limits

The Chair will then prepare a written statement detailing all findings and final determinations, the rationale(s) explaining the decision(s), the evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s) and will deliver the statement to the Title IX Coordinator.

This statement is typically three to five (3-5) pages in length and must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

33. Notice of Outcome

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome letter. The Notice of Outcome may then be reviewed by legal counsel if necessary based on the facts. The Title IX Coordinator will then share the letter, which includes the final determination, rationale, and any applicable sanction(s), with the parties and their Advisors within 7 business days of receiving the deliberation statement.

The Notice of Outcome will be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official College records, or emailed to the parties' College-Provided Email Address.

considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from the College.

- x **Expulsion** Permanent termination of student organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- x **Loss of Privileges:** Restricted from accessing specific College privileges for a specified period of time.
- x **Other Actions** In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

C. Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- x Verbal or Written Warning
- ans1
- x

(ve5)-3(1)5a/6.1(o)2

x

x

x

given 5 business days to submit a response to the portion of the appeal that was approved and involves them. All responses, if any, will be forwarded by the Appeal Decision-maker to all parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Decision-maker and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, and the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses, if any, within 5 business days. Any such responses will be circulated for review and comment by all parties. If not approved, the parties will be notified accordingly, in writing.

Neither party may submit any new requests for appeal after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved grounds for appeal, and the subsequent responses, and the Appeal Decision-maker will render a decision within no more than 7 business days, barring exigent circumstances. All decisions apply the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

A Notice of Appeal Outcome will be sent to all parties simultaneously. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which the College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law.

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

B. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed (i.e.: not implemented) during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then the emergency removal procedures (detailed above) for a show cause meeting on the justification for doing so must be permitted within 48 hours of implementation.

C. Appeal Considerations

- x Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- x Decisions on appeal are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling reason.

2020, under Title IX and will be reviewed and updated annually by the Title IX Coordinator. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the Resolution Process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require Policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change—or court decisions alter—the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws or regulations or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws which frame such policies and codes, generally.

This procedure handbook is effective March 6, 2023.

APPENDIX A: PROCESS B

- x Process B is applicable when the Title IX Coordinator determines Process A is inapplicable, or offenses subject to Process A have been dismissed.
- x If Process A is applicable, Process A must be applied in lieu of Process B.

RESOLUTION PROCESS³⁶

- x The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- x The Title IX Coordinator works with the Complainant to ensure they have an Advisor.
- x The Title IX Coordinator works with the Complainant to determine which of three options to pursue: A Supportive Response, an Informal Resolution, or an Administrative Resolution.
 - o If a Supportive Response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes and then seeks to facilitate implementation. An Administrative Resolution process is not initiated, though the Complainant can elect to initiate it later, if desired.
 - o If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for Informal Resolution, and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
 - o If Administrative Resolution is preferred, the Title IX Coordinator initiates the investigation process and determines whether the scope of the investigation will address:
 - f Incident
 - f A potential pattern of misconduct
 - f A culture/climate issue⁴⁰
- x The Title IX Coordinator may determine that an assessment of risk should be conducted by the CARE Team as part of the initial assessment. An assessment can aid in ten critical and/or required determinations, including:
 - o Interim suspension of a Respondent who is a threat to health/safety
 - o Whether the Title IX Coordinator should pursue Administrative Resolution absent a willing/able Complainant
 - o Whether to put the investigation on the footing of incident and/or pattern and/or climate
 - o To help identify potentially predatory conduct
 - o To help assess/identify grooming behaviors
 - o Whether a Complaint is amenable to Informal Resolution, and what modality may be most successful
 - o Whether to permit a voluntary withdrawal by the Respondent
 - o Whether to impose transcript notation or communicate with a transfer college about a Respondent
 - o Assessment of appropriate sanctions/remedies

- o Whether a Clery Act Timely Warning and/or Trespass order/Persona-non-grata is needed

Based on the initial assessment, the College will initiate one of these responses:

- x **Supportive Response** – measures to help restore the Complainant’s education access, as described in the Policy.
- x **Informal Resolution** – typically used for less serious offenses and only when all parties agree to Informal Resolution, or when the Respondent is willing to accept responsibility for violating policy.
- x **Administrative Resolution** – investigation of alleged policy violation(s) and recommended finding, subject to a determination by the Title IX Coordinator or Decision-maker(s) and the opportunity to appeal.

- x Issues of relevance of questions and evidence
- x Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- x How to determine appropriate sanctions in reference to all forms of harassment and discrimination allegations

Pool members are usually

Advisors are expected to consult with their advisees without disrupting College meetings or interviews. Advisors do not represent parties in the process; their role is only to advise.

B. Expectations of the Parties with Respect to Advisors

Each party may choose an Advisor⁴¹ who is eligible and available⁴² to accompany them throughout the process. The Advisor can be anyone, including an attorney, but should not be someone who is also a witness in the process. A Advisor

C. Assistance in Securing an Advisor⁴³

For representation, Respondents may wish to contact organizations such as:

- x Families Advocating for Campus Equality (<http://www.facecampusequality.org>)
- x Stop Abusive and Violent Environments (<http://www.saveservices.org>)

Complainants may wish to contact organizations such as:

- x The Victim Rights Law Center (<http://www.victimrights.org>)
- x The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association
- x The Time's Up Legal Defense Fund (<https://nwlc.org/times-up-legal-defense-fund/>)

5. Resolution Options

Proceedings are private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accord with College Policy.

Alternative Resolution is an informal process, such as mediation or restorative

or responsive actions, to which the Respondent agrees, and which are promptly implemented, the process is over. The Complainant may be consulted on and will be informed of this outcome.

If the Respondent accepts responsibility for some of the alleged policy violations and the Title IX Coordinator has determined appropriate sanction(s) or responsive actions, to which the Respondent agrees, and which are promptly implemented for those violations, then the remaining allegations will continue to

While previous conduct violations by the Respondent are not generally admissible as

which the parties may appeal and the steps the parties may take to request an appeal of the findings. More information about the appeal procedures can be found in [Section 11](#).

9. Sanctions

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

- x The nature, severity of, and circumstances surrounding the violation(s)
- x An individual's disciplinary history
- x Previous allegations or allegations involving similar conduct
- x The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- x The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- x The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- x The impact on the parties
- x Any other information deemed relevant by the Title IX Coordinator/Decision-maker

The sanction(s) will be implemented as soon as is feasible. To the sanctions described in this Policy

A.medt0010

activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.

- x **Suspension:** Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at the College.
- x **Expulsion**Permanent termination of student status and revocation of rights to be on campus for any reason or to attend College-sponsored events.
- x **Other Actions**In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

B. Student Organization Sanctions

The following are the common sanctions that may be imposed upon student organizations singly or in combination:⁴⁶

- x **Warning:** A formal statement that the conduct was unacceptable and a warning that further violation of any College policy, procedure, or directive will result in more severe sanctions/responsive actions. or

- x **Other Actions**In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

C. Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- x Verbal or Written Warning
- x Performance Improvement Plan/Management Process
- x Enhanced Supervision, Observation, or Review
- x Required Counseling
- x Required Training or Education
- x Probation
- x Denial of Pay Increase/Pay Grade
- x Loss of Oversight or Supervisory Responsibility
- x Demotion
- x Transfer
- x Reassignment
- x Delay of Tenure Track Progress
- x Assignment to New Supervisor
- x Restriction of Stipends, Research, and/or Professional Development Resources
- x Suspension with Pay
- x Suspension without Pay
- x Termination
- x **Other Actions**In addition to or in place of the above sanctions/responsive actions, the College may assign any other responsive actions as deemed appropriate.

10. Withdrawal or Resignation while Charges are Pending

A. Students

The College generally does not permit a student to withdraw if that student has an allegation pending for violation of the Title IX, Anti-discrimination, Anti-harassment, and Anti-retaliation Policy. The College may place a hold, bar access to an official transcript, and/or prohibit graduation as necessary to permit the Resolution Process to be completed.

B. Employees

Should an employee resign with unresolved allegations pending, the records of the Title IX Coordinator will reflect that status, and any College responses to future inquiries regarding employment references for that individual may include the former employee's unresolved status and whether the employee is eligible for rehire.

11. Appeals

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator within 5 business days of the delivery of the written finding of the Title IX Coordinator or

D Ts o202p ,(ua)tleew-(bby4c -0.00(on6u4lt4(w)10(h)-4 (hrrat)6 (*11 Tt (ppe2 Tw 6)-4 (hrra9Tw 6)-4 (hrra9Tw

These remedies/actions may include, but are not limited to:

- x Referral to counseling and health services
- x Referral to the Employee Assistance Program
- x Education to the community
- x Permanent alteration of housing assignments
- x Permanent alteration of work arrangements for employees
- x Provision of campus safety escorts

10/20/23

