

 AULTMAN COLLEGE		
TITLE: Title IX Policy: Sex Discrimination, Sexual Harassment, and Sexual Assault	ORIGINAL EFFECTIVE DATE: 3.12.2012	
	REVISION DATE: 06/15/2020	VERSION: 7

(This policy rescinds any previous publication covering the same material)

I. Purpose:

Aultman College is committed to providing an environment that respects the dignity of every individual and to maintaining a safe, supportive environment for students, faculty, staff, and visitors. The college expects all members of the college community and guests to act responsibly, showing respect for others and for the community at large. The college does not discriminate in any aspect of its educational program, activities, and/or services based on sex and is prohibited from doing so by Title IX. The purpose of this policy is to give guidance for identifying, reporting, and addressing all forms of sex discrimination, including harassment and assault/violence.

II. Policy:

Sex discrimination in any form will not be tolerated. Sex discrimination includes discrimination based on pregnancy, gender identity, and failure to conform to stereotypical notion of femininity and masculinity. Sexual harassment is a form of prohibited sex discrimination, and it includes sexual violence. Thus, the college’s prohibition of sex discrimination extends to complaints of sexual harassment and sexual violence. This policy applies to all members of the college community including students, faculty, staff, and third parties who are participating in or attempting to participate in the college’s educational programs and activities. This policy applies even when the complainant and alleged perpetrator are members of the same sex, and it applies regardless of national origin, immigration status, or citizenship status. It extends to all aspects of the college’s educational program and activities, including, but not limited to, admissions, employment, academics, and student services, and applies whether the participation is in-person or online.

The college has jurisdiction over Title IX-related complaints regarding conduct that occurred on campus, during or at an official college program or activity (regardless of location), or off campus when the conduct creates a hostile environment on campus. The

college will investigate all complaints made under this policy and, if necessary, act to prevent the recurrence of sex discrimination and remedy its effects.

TITLE IX STATEMENT

The college complies with Title IX of the Education Amendments of 1972 and its implementing regulations, which prohibit discrimination based on sex in the college’s educational programs and activities. Title IX and its implementing regulations also prohibit retaliation for asserting claims of sex discrimination. The college has designated the following Title IX Coordinator to coordinate its compliance with Title IX and to receive inquiries regarding Title IX, including complaints of sex discrimination:

Ms. Lyn Sabino
Director Institutional Effectiveness and Compliance
Aultman Education Center, second floor
Office Location: See receptionist in college main office
Office direct phone line: 330.363.4227
Email: Lyn.Sabino@aultman.com

For more information about Title IX, a copy of the regulations which detail Title IX requirements, or to file a complaint directly with the Office for Civil Rights, see the contact information below:

U.S. Department of Education
Office for Civil Rights
Cleveland Office
1350 Euclid Avenue, Suite 325
Cleveland, OH 44115-1812
Telephone: 216-522-4970
FAX: 216-522-2573; TDD: 800-877-8339
Email: OCR.Cleveland@ed.gov

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
FAX: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov

ROLE OF THE TITLE IX COORDINATOR

The Title IX Coordinator (1) receives complaints under this policy; (2) coordinates dissemination of information and education and training programs; (3) assists members of the college community in understanding that sexual misconduct is prohibited by this policy; (4) answers questions about this policy; (5) appoints investigators and ensures they are trained to respond to and investigate complaints of sexual misconduct; (6) ensures that employees and students are aware of the procedures for reporting and

addressing complaints of sexual misconduct; and (7) implements the investigation and resolution procedures or designates appropriate persons to implement them. In complaints involving employees, the Title IX Coordinator will notify and involve other administrators and parties in an investigation as appropriate.

III. **Definitions:**

A. Sexual Harassment

Sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made or threatened to be made, either explicitly or implicitly, a term or condition of an individual's employment or education
- Submission to or rejection of such conduct by an individual is used or threatened to be used as the basis for academic or employment decisions affecting that individual, or
- Such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance and is sufficiently severe, pervasive and objectively offensive as to create what a reasonable person would perceive as an intimidating, hostile, or offensive employment, education, or living environment
 - In determining whether a hostile environment exists, the college will consider the totality of circumstances, including factors such as the actual impact the conduct has had on the victim's participation in the college's programs and activities, the nature and severity of the conduct at issue, the frequency and duration of the conduct, the relationship between the parties (including accounting for any power differential), the respective ages of the parties, the context in which the conduct occurred, and the number of persons affected.

1. Examples of Sexual Harassment

Some examples of sexual harassment include:

- Pressure for a dating, romantic, or intimate relationship
- Unwelcome touching, kissing, hugging, rubbing, or massaging
- Pressure for sexual activity
- Unnecessary references to parts of the body
- Sexual innuendos, sexual jokes, or sexual humor
- Making sexual gestures
- Displaying sexual graffiti, pictures, videos, or posters unrelated to legitimate course content

- Using sexually explicit profanity
- Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities
- E-mail and Internet use that violates this policy
- Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin
- Sending sexually explicit emails or text messages
- Commenting on a person's dress in a sexual manner
- Giving unwelcome personal gifts such as flowers, chocolates, or lingerie that suggest the desire for a romantic relationship
- Commenting on a person's body, gender, sexual relationships, or sexual activities
- Sexual violence (as defined below)

B. Sexual Violence/Assault

Sexual violence/assault is a form of prohibited sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity, because of his or her youth, or because of his or her incapacitation due to the use of drugs and/or alcohol.

1. Examples of Sexual Violence/Assault

Some examples of sexual violence/assault include:

- Rape or sexual assault: sexual intercourse (anal, oral, or vaginal) by a man or woman upon a man or woman without consent
- Unwilling sexual penetration (anal, vaginal, or oral) with any object or body part, committed by force, threat, or intimidation
- Sexual touching with an object or body part, by a man or woman upon a man or woman, without consent
- Sexual touching with an object or body part, by a man or woman upon a man or woman, committed by force, threat, or intimidation
- The use of force or coercion to effect sexual intercourse or some other form of sexual contact with a person who has not given consent
- Having sexual intercourse with a person who is unconscious because of drug or alcohol use
- Hazing that involves penetrating a person's vagina or anus with an object

- Use of the “date rape drug” to effect sexual intercourse or some other form of sexual contact with a person
- One partner in a romantic relationship forcing the other to have sexual intercourse without the partner’s consent
- Exceeding the scope of consent by engaging in a different form of sexual activity than a person has consented to
- Knowingly transmitting a sexually transmitted disease such as HIV to another person through sexual activity
- Coercing someone into having sexual intercourse by threatening to expose their secrets
- Secretly videotaping sexual activity where the other party has not consented
- Prostituting another student

C. Consent

Lack of consent is a critical factor in determining whether sexual violence has occurred. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Consent is not passive.

- If coercion, intimidation, threats, and/or physical force are used, there is no consent. Coercion is direct or implied threat of danger, hardship, or retribution sufficient to persuade a reasonable person to engage in sexual activity in which they otherwise would not engage or to which they otherwise would not submit. Coercion is different from seductive behavior based on the type of pressure someone uses to get another to engage in sexual activity. A person’s words or conduct cannot amount to coercion unless they wrongfully impair the other’s free will and ability to choose whether to engage in sexual activity. Coercion can include unreasonable and sustained pressure for sexual activity. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive; once a person has made it clear that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, you should be absolutely clear that they have changed their mind and are consenting before proceeding in sexual activity with them.
- If a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.

- Warning signs of when a person may be incapacitated due to drug and/or alcohol use include slurred speech, falling, passing out, and vomiting.
- If a person is asleep or unconscious, there is no consent.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.
- Effective consent may not exist when there is a disparity in power between the parties (e.g., faculty/student, supervisor/employee).

D. Domestic Violence, Dating Violence, and Stalking

The crimes of domestic violence, dating violence, and stalking can also constitute sexual misconduct when motivated by a person's sex. These crimes, no matter the motivation behind them, are a violation of this policy.

1. Domestic Violence

"Domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of a victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse or the victim under the domestic or family violence laws of the jurisdiction [...], or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- Ohio's definition of domestic violence can be found in Section 3113.31 of the Ohio Revised Code.

2. Dating Violence

"Dating violence" means violence committed by a person:

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) The length of the relationship.
- (ii) The type of relationship.
- (iii) The frequency of interaction between the persons involved in the relationship.

- Ohio law does not specifically define dating violence.

3. Stalking

“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (A) fear for his or her safety or the safety of others; or
- (B) suffer substantial emotional distress.

- Ohio’s definition of stalking can be found in Section 2903.211 of the Ohio Revised Code.

E. Sexual Misconduct

For purposes of this policy and procedures, “sexual misconduct” is an umbrella term that includes sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, and stalking.

MAKING A COMPLAINT

A. Making a Report

Incidents of alleged sexual misconduct should be immediately reported to the Title IX Coordinator or a trusted college faculty/staff member, regardless whether the incident occurred on or off the college’s grounds. All college faculty and employees have a duty to promptly report sexual misconduct to the Title IX Coordinator when they observe such conduct or when a report of sexual misconduct is made to them. This duty does not apply to the confidential resources described in the next paragraph. Students are always encouraged, but not required, to report sexual misconduct. Students should be aware that all faculty and employees except those described in the next paragraph have an obligation to report sexual misconduct to the Title IX Coordinator.

Victims wishing to talk confidentially about their situations may contact a confidential resource, who is available to assist and will not report the victim’s circumstances to the college for investigation without the victim’s permission. Confidential resources include Aultman Hospital chaplains and the college health services nurse. Notwithstanding, if a crime has occurred, the confidential resource will report it to the Title IX Coordinator for inclusion in the college’s annual crime statistics disclosure, though the victim’s name will be withheld from this report.

A complainant who makes a claim of sexual misconduct to the college will be given a copy of the document titled “Rights and Options After Filing a Complaint Under Aultman College’s Sex Discrimination, Sexual Harassment, and Assault Policy.” This document provides information about this policy and the procedures used to investigate and resolve complaints of sexual misconduct, options for filing complaints with the local police, resources that are available on campus and in the community, etc. A person against whom a complaint has been filed will also be given similar information about the process and resources.

B. Content of the Complaint

So that the college has sufficient information to investigate a complaint, the complaint should include: (1) the date(s) and time(s) of the alleged conduct; (2) the names of all person(s) involved in the alleged conduct, including possible witnesses; (3) all details outlining what happened; and (4) contact information for the complainant so that the college may follow up appropriately.

C. Timing of Complaints

There is no statute of limitations for complaints under this policy. However, the college encourages persons to make complaints of sexual misconduct as soon as possible because late reporting may limit the college's ability to investigate and respond to the conduct complained of.

D. Retaliation

It is a violation of this policy to retaliate against any member of the college community who reports or assists in making a complaint of sexual misconduct or who participates in the investigation of a complaint in any way. Persons who believe they have been retaliated against in violation of this policy should make a complaint to the Title IX Coordinator.

E. Bad Faith Complaints

While the college encourages all good faith complaints of sexual misconduct, it also has the responsibility to balance the rights of all parties. Therefore, if the college's investigation reveals that a complaint was knowingly false, the complaint will be dismissed and the person who filed the knowingly false complaint may be subject to discipline.

F. Conduct that Constitutes a Crime

Any person who wishes to make a complaint of sexual misconduct that also constitutes a crime—including sexual violence, domestic violence, dating violence, or stalking—is also encouraged to make a complaint to Aultman Hospital security services and local law enforcement. If requested, the college will assist the complainant in notifying the appropriate law enforcement authorities. In the event of an emergency, please contact 911. A victim may decline to notify such authorities.

G. Interim Measures

Pending outcome of an investigation in accordance with the Investigation and Resolution Procedures, the college will provide interim measures to either or both the reporting and responding parties involved in an alleged incident of sexual misconduct. This may include changing academic, transportation, work, or living situation if options to do so are reasonably available (and only to the extent that the college has control over these environments). Such changes may be available regardless of whether the individual chooses to report the crime to campus police or local law enforcement. Requests to change an academic, living, transportation, or work situation, or for any other protective measure, should be made to the Title IX Coordinator. In the event such a measure is implemented, the College will maintain it as confidential to the extent that maintaining

confidentiality would not impair the College’s ability to provide it. The Title IX Coordinator will communicate with each party throughout the investigation to ensure interim measures remain necessary and effective. Failure to comply with the terms of any interim measures or protections that have been implemented may constitute a separate violation of this policy.

If a complainant has obtained an order of protection, temporary restraining order or other no contact order against the alleged perpetrator from a criminal, civil, or tribal court, the complainant should provide such information to the Title IX Coordinator. The college will take all reasonable and legal action to implement the order.

H. Law Enforcement Investigation

Any law enforcement investigation conducted because of such a report will be separate and apart from and will not replace the college’s investigation of the incident under the Investigation and Resolution Procedure outlined in this policy. The college can find a violation of this policy regardless of the outcome of any criminal investigation.

I. Special Guidance Concerning Complaints of Sexual Violence, Domestic Violence, Dating Violence, or Stalking.

Victims of sexual violence (including sexual assault), domestic violence, dating violence or stalking will be treated with sensitivity, decency, and respect. Victims will be referred to appropriate medical, emotional, psychological, and social services. When physical violence of a sexual nature has been perpetrated against you, the college recommends that you immediately go to the emergency room of a local hospital and contact law enforcement (911 if emergency) or Aultman Hospital Security at 330.363.6777, in addition to making a complaint under this policy to the Title IX Coordinator.

If possible, victims of sexual violence, domestic violence, and dating violence are encouraged to preserve physical evidence; for example, refrain from bathing or changing clothes until law enforcement officials can properly investigate the incident. Preserving evidence may be necessary for proof of the crime or in obtaining a protection order. Victims who have the courage to report sexual violence, domestic violence, dating violence, and stalking must feel confident that their personal safety will be protected and they will not be re-victimized by the college’s investigation and resolution or a criminal investigation.

It is also important to take steps to preserve evidence in cases of stalking, to the extent such evidence exists. In cases of stalking, evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contact and violence.

J. Victim Resources

Victims of sexual assault may access the following for assistance:

On-Campus

Provider	Location	Phone Number
Aultman Hospital Security	Ground Level Main Hospital	330.363.6777
College Main Office	AEC 2 nd Floor-Main Office	330.363.6347

disciplinary action for drug or alcohol use against an individual making a good faith report of sexual misconduct, either as the complainant or as a witness, provided that these conduct violations did not and do not place the health or safety of any other person (including patients, students, faculty, or staff in the clinical setting) at risk. The college may, however, require the reporting individual to attend a course or pursue other educational interventions related to alcohol and drugs. The college's commitment to amnesty in these situations does not prevent action by police or other legal authorities against an individual who has illegally consumed alcohol or drugs.

Lowering the Risk of Sexual Assault

- Be aware of your surroundings. There is a higher chance of avoiding sexual assault just by being aware of what and who is around you.
- Understand your sexual boundaries and believe in your right to set limits on your sexuality.
- Communicate your sexual boundaries. If someone offends you, clearly state your boundaries up front.
- Avoid use of alcohol and/or drugs. Alcohol and drugs interfere with clear thinking and effective communication, and as stated above, are cited frequently in sexual assault incidences.

Registered Sex Offenders

For a listing of registered sex offenders in Stark County, please refer to the Stark County Sheriff's web site at <http://www.starkcountyohio.gov/sheriff/resources/sex-offender-links>. This web site provides addresses and classification of registered sex offenders. For a listing of registered sex offenders in any Ohio county, refer to the Ohio Department of Rehabilitation and Correction's Offender Search website at <https://appgateway.drc.ohio.gov/OffenderSearch>. The Aultman Hospital Security department may also assist with how to obtain sexual offender information. Please contact the Security department's non-emergency number, 330.363.6968, for assistance.

Awareness Programming

The college is committed to providing programming which increases awareness of sexual discrimination, including harassment and violence such as rape, acquaintance rape, and other forcible and non-forcible sex offenses. The examples below represent some of the program topics regularly offered to the college community:

- Campus Safety/Crime Prevention Presentation by Aultman Hospital Security
- Domestic Violence Awareness
- Presentation from representative at Quest Recovery services
- Presentation from Rape Crisis Center – Sexual Assault Prevention

To learn more about educational programming and resources, contact the Title IX Coordinator.

INVESTIGATION AND RESOLUTION PROCEDURES

A. General Principles

1. Applicability

Complaints regarding any act of sexual misconduct carried out by Aultman College students, faculty, staff, or third parties will be directed to the Title IX Coordinator and processed in accordance with this Investigation and Resolution Procedure. These procedures are the exclusive means of resolving complaints of sexual misconduct.

2. Administration

For purposes of these procedures, “Investigating Officer” means the Title IX Coordinator or designee. However, the Title IX Coordinator may engage others to assist in the investigation process as appropriate, and an investigation team of multiple parties may serve in the role of the “Investigating Officer.” The Investigating Officer shall have responsibility for administering these procedures.

3. Promptness, Fairness and Impartiality

These procedures provide for prompt, fair, and impartial investigations and resolutions. The Investigating Officer shall discharge his or her obligations under these complaint resolution procedures fairly and impartially. . The Investigating Officer shall conduct an objective evaluation of all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person’s status as a complainant, respondent, or witness. If any person involved in an investigation determines that he or she cannot apply these procedures fairly and impartially because of the identity of a complainant, respondent, or witness, or due to any other conflict of interest, he/she shall inform the Title IX Coordinator so that another appropriate individual can be designated to administer these procedures. If the Title IX Coordinator is the person with the conflict of interest, he/she will delegate the investigation to an appropriately trained college official.

4. Training

These procedures will be implemented by officials who receive annual training on the issues related to sexual misconduct, domestic violence, dating violence, and stalking, the scope of education program or activity, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

B. Investigation and Resolution of the Complaint

1. Initial Evaluation of the Complaint & Notification to the Parties

When a report of alleged sexual misconduct is made, the Title IX Coordinator will evaluate whether the report falls within the scope of the Title IX Policy: Sex Discrimination, Sexual Harassment, and Sexual Assault. If it does not fall under the policy, the complainant will be so informed. In such situations, other college procedures may be applicable to the conduct complained of.

If it is determined that the complaint is covered by the policy, and prior to the commencement of the investigation, a prompt written notice will be provided to the

respondent of the allegations constituting a potential violation of the policy, including identities of the parties involved, the specific section of the policy allegedly violated, the precise conduct constituting the potential violation, and the date and location of the alleged incident.

2. Preliminary Matters

a. Timing of the Investigation

The college will endeavor to conclude its investigation and resolution of the complaint within a reasonable period. The Investigating Officer may require the production of information by the parties by a certain date to facilitate a timely resolution. Both the complainant and the respondent will be given periodic updates regarding the status of the investigation. If either the complainant or respondent needs additional time to prepare or to gather witnesses or information, they shall notify the Investigating Officer in writing explaining how much additional time is needed and why it is needed. The Investigating Officer shall respond to any such request within three (3) days.

b. Confidentiality

All complaints of sexual misconduct will be promptly and thoroughly investigated in accordance with these procedures, and the college will investigate and respond to any complaint in a manner that maintains the confidentiality of the participants to the fullest extent reasonable and possible and as required by the Family Educational Rights and Privacy Act (“FERPA”) and/or other laws allowing for investigations and hearings under Title IX . However, because of laws relating to reporting and other state and federal laws, the college cannot guarantee confidentiality to those who make complaints.

In the event a complainant requests confidentiality or asks that a complaint not be investigated, the college will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. However, victims should be aware that requests for their identity to be protected from disclosure to the alleged perpetrator may limit the college’s ability to respond or discipline the accused party. Sometimes the college will not be able to honor a request for confidentiality because it has an obligation to provide a safe and nondiscriminatory environment for its other campus community members and, therefore, the college reserves the right to initiate an investigation despite a complainant’s request for confidentiality in circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the college community. The college will notify a victim if his/her request for confidentiality cannot be ensured. The Title IX Coordinator (or his/her designee) is the person responsible for evaluating requests for confidentiality. The Title IX Coordinator (or his/her designee) may consult with other appropriate college personnel and legal counsel as necessary.

Note that certain types of sexual misconduct are considered crimes for which the college must disclose crime statistics in its Annual Security Report that is provided to the campus community and is available to the public. These disclosures will be made without including personally identifying information.

c. Standard of Review and Presumption of Non-Responsibility

Investigations shall be conducted using a preponderance of the evidence standard and shall presume the respondent is not responsible unless the preponderance of the evidence demonstrates otherwise.

d. Interim Measures

At any time during the investigation, the Investigating Officer/Title IX Coordinator may determine that supportive services, interim remedies or protections for the parties involved or witnesses are appropriate. "Supportive services" are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to another, while designed to ensure equal educational access, protect safety, or deter sexual harassment. These interim remedies may include separating the parties, placing limitations on contact between the parties, or making alternative class-placement or workplace arrangements. Failure to comply with the terms of these interim remedies or protections may constitute a separate violation of the Sex Discrimination, Sexual Harassment, and Sexual Violence Policy.

e. Support Person/Advisor

During the investigation process, both a complainant and a respondent may ask a support person/advisor to accompany him or her at all stages of the process. In cases involving multiple complainants or respondents, the support person/advisor cannot be another complainant or respondent. The support person/advisor does not serve as an advocate on behalf of the complainant or respondent may not be actively involved in any proceedings, and he or she must agree to maintain the confidentiality of the process. The college reserves the right to remove or dismiss a support person/advisor who becomes disruptive or who does not abide by the limitations noted in the previous sentence.

f. Pending Criminal Investigation

Some instances of sexual misconduct may also constitute criminal conduct. In such instances, the complainant is also encouraged to file a report with Aultman Hospital Security and the appropriate law enforcement authorities; if requested, the college will assist the complainant in doing so. The pendency of a criminal investigation, however, does not relieve the college of its responsibilities under Title IX. Therefore, to the extent doing so does not interfere with any criminal investigation, the college will proceed with its own investigation and resolution of the complaint.

g. Rights of the Parties

During the investigation and resolution of a complaint, the complainant and respondent shall have equal rights. They include:

- Equal opportunity to identify and have considered witnesses and other relevant evidence;
- Similar and timely access to all information considered by the Investigating Officer;

- Equal opportunity to review any statements or evidence provided by the other party; and
- Equal access to review and at least 10 days to respond to and/or comment upon any information independently developed by the Investigating Officer.

3. Commencement of the Investigation

After the initial notification has been made to the respondent, the Investigating Officer will commence an investigation as soon as practicable, but not later than seven (7) days after the complaint is made. The purpose of the investigation is to determine whether it is more likely than not that the alleged behavior occurred and, if so, whether it constitutes sexual misconduct. During the investigation, the Investigating Officer may receive counsel from other administrators, the college's attorneys, or other parties as needed. Where failure to investigate would be clearly unreasonable in light of the known circumstances, the Investigating Officer may commence an investigation even if the complainant requests that the matter not be pursued. In such a circumstance, the Investigating Officer will take all reasonable steps to investigate and respond to the matter in a manner that is informed by the complainant's articulated concerns. The Investigating Officer may dismiss the complaint if the respondent is no longer enrolled at or employed by the college.

4. Content of the Investigation

During the investigation, the complainant will have the opportunity to describe his or her allegations and present supporting witnesses or other evidence. The respondent will have an opportunity to respond to the allegations and present supporting witnesses or other evidence. Throughout the investigation, the parties will receive written notice in advance of any interviews, meetings, or hearings so that they have sufficient time to prepare for meaningful participation.

The Investigating Officer will review the statements and evidence presented and may, depending on the circumstances, interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather and consider information relevant to the complaint. All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information. The Investigating Officer will not seek disclosure of medical or psychological records or protected under a legal privilege unless the holder waives the privilege to give the Investigating Officer access.

5. Investigator's Report

At the conclusion of the investigation, the Investigating Officer will prepare a preliminary investigation report. The preliminary report will explain the scope of the investigation, identify findings of fact, and state whether any allegations in the complaint were found to be substantiated by a preponderance of the evidence. Both parties will be provided with a copy of the preliminary report and will have three (3) business days to

provide written comments to the report, if desired. After considering the parties' comments, if any, the Investigating Officer will issue a final report.

If the final report determines that sexual misconduct occurred, the Investigating Officer shall set forth in an addendum to the report those steps recommended to maintain an environment free from sexual misconduct and to protect the safety and well-being of the complainant and other members of the college community. Such actions will also include reasonable steps to correct the effects of such conduct on the complainant and others and to prevent the recurrence of sexual misconduct, and retaliation. Examples of such action include no-contact orders, classroom reassignment, the provision of counseling or other support services, training, and discipline for the perpetrator, including up to termination, expulsion, or other appropriate institutional sanctions.

The complainant and the respondent will receive a copy of the written report and any addendum within three (3) days of its completion. If necessary, the version of the addendum provided to the complainant and/or respondent will be redacted to ensure that information concerning any remedial and/or disciplinary measures is disclosed in a manner consistent with Title IX, FERPA, and the Clery Act.

The written report of the Investigating Officer shall be provided to the Hearing Officer described in Section V(D) below.

6. Special Procedures for Complaints against the President, the Title IX Coordinator, or other Administrators Ranked Higher than the Title IX Coordinator

If a complaint involves alleged conduct on the part of the college's President, the college's Board of Directors will designate the Investigating Officer. Based on the information gathered by the investigation, the Board of Directors will prepare and issue the written report determining the complaint. The determination of the Board of Directors is final and not subject to appeal.

If a complaint involves alleged conduct on the part of the Title IX Coordinator or any administrator ranked higher than the Title IX Coordinator, the college's President will designate the Investigating Officer. Based on the information gathered by the investigation, the President will prepare and issue the written report determining the complaint. The determination of the President is final and not subject to appeal.

C. Informal Resolution

Informal means of resolution, such as mediation, may be used in lieu of the formal investigation and determination procedure. However, the following standards apply to any informal resolution method that is utilized:

- Informal means may only be used with both parties' voluntary, informed, written consent to participate after receiving a full disclosure of the allegations and their options for formal resolution, and with the involvement of the Title IX

Coordinator. No party will be made to waive use of the formal investigation and hearing process.

- The complainant will not be required to work out the problem directly with the respondent.
- Either party may terminate any such informal means at any time and elevate the complaint to or continue with the formal resolution process.
- With the agreement of the parties involved and the college, a complaint may be informally resolved at any stage of these procedures.

If informal resolution is reached, it will be documented in writing and signed by both parties. An informal resolution cannot be appealed.

The informal resolution process may not be used in situations involving allegations of sexual harassment by an employee against a student.

D. Live Hearing

All formal investigations under Title IX will include a live hearing before an impartial Hearing Officer. The Hearing Officer may not be the Coordinator, nor the Investigating Officer.

1. Participation in Hearing

Participants in the hearing (including parties, witnesses and the decision-maker) may appear in-person or virtually. If either party requests, the College will configure the hearing so the parties may be in separate rooms, but able to see and hear each other via videoconference technology.

2. Verbatim Record

The College shall arrange for a verbatim recording to be made of the hearing. Said recording may be in the form of a stenographic record, an audio recording or an audio/video recording.

3. Representation

If a party participating in a live hearing does not have an advisor, the College will provide one to the party for the hearing. The College will bear the cost of the advisor. The advisor may be an attorney but is not required to be.

4. Standard of Review and Presumption of Non-Responsibility

Hearings shall be conducted using a preponderance of the evidence standard and shall presume the respondent is not responsible unless the preponderance of the evidence demonstrates otherwise.

5. Cross-Examination and Relevancy

Each party (or their representatives) shall be permitted to cross-examine each other and all witnesses via direct, oral cross-examination. Cross-examination shall be limited to relevant questioning. If the Hearing Officer disallows a question as irrelevant, the Hearing Officer will explain why the disallowed question was not relevant. No questions or evidence will be permitted regarding the Complainant's sexual history unless such questions/evidence are offered to prove someone other than the responded committed the alleged act, or to prove consent. If an individual does not testify but previously made statements regarding the issues at hand, the Hearing Officer will not rely on the previous statements to determine responsibility and will draw no inferences about responsibility based on the individual's failure to testify.

6. Determination

The Hearing Officer will produce a written determination including (1) findings of fact, (2) conclusions regarding whether the conduct occurred, (3) a rationale for conclusions as to each allegation, (4) disciplinary sanction imposed on the accused (if any), and (5) remedies provided to the Complainant (if any). The Hearing Officer must provide remedies to the Complainant if the Respondent is found responsible. The College will not impose discipline without following the Title IX grievance process. The College will send the Hearing Officer's determination to both parties simultaneously and will include with the determination information on how to appeal.

E. Appeals

1. Grounds of Appeal

The complainant or respondent may appeal the determination of a complaint only on the following grounds:

- There is a substantial likelihood that newly discovered information, not available at the time evidence was presented to the Investigating Officer or hearing panel, would result in a different decision;
- There was a procedural error significant enough to call the outcome into question; or
- Bias or prejudice on the part of the Investigating Officer

2. Method of Appeal

Appeals must be filed with the college President ("Appellate Officer"). The appeal must be filed within ten (10) days of receipt of the written report determining the outcome of the complaint. The appeal must be in writing and contain the following:

- Name of the complainant;
- Name of the respondent;

- A statement of the determination of the complaint, including corrective action if any;
- A detailed statement of the basis for the appeal including the specific facts, circumstances, and argument in support of it; and
- Requested action, if any.

The appellant may request a meeting with the appropriate Appellate Officer, but the decision to grant a meeting is within the Appellate Officer's discretion. However, if a meeting is granted, then the other party will be granted a similar opportunity.

3. Resolution of the Appeal

The Appellate Officer will resolve the appeal within fifteen (15) days of receiving it and may take any and all actions that he/she determines to be in the interest of a fair and just decision. The decision of the Appellate Officer is final. The Appellate Officer shall issue a short and plain, written statement of the resolution of the appeal, including any changes made to the Investigating Officer's previous written determination. The written statement shall be provided to the complainant, respondent, and the Title IX Coordinator within three (3) days of the resolution.

F. Documentation

Throughout all stages of the investigation, resolution, and appeal, the Investigating Officer, the Title IX Coordinator, the Hearing Officer, and the Appellate Officer as the case may be, are responsible for maintaining documentation of the investigation and appeal, including documentation of all proceedings conducted under these complaint resolution procedures, which may include written findings of fact, transcripts, and audio recordings.

G. Intersection With Other Procedures

These complaint resolution procedures are the exclusive means of resolving complaints alleging violations of the Sex Discrimination, Sexual Harassment, and Assault Policy. To the extent there are any inconsistencies between these complaint resolution procedures and other college grievance, complaint, or discipline procedures, these complaint resolution procedures will control the resolution of complaints alleging violations of the Title IX Policy: Sex Discrimination, Sexual Harassment, and Assault.

IV. Procedure:

Procedures will follow requirements of the policy statement above.

V. Approvals:

Legal Review 02.01.12; 07.2015; 04.01.17; 06.12.18; 08.2019 HB; 05.27.20 SPB

SAC approval 02.28.12; 12.03.14; 09.16.15

Admin Council approval 03.12.12; 01.12.15; 10.08.15; 4.21.17; 07.31.18; 06.10.20

VI. **Location:** [Please provide verbiage for the following required publications]

- Catalog (entire document)
- Website (entire document)

Related References:

[Harassment Policy](#)

[Student Code of Conduct](#)