

**PRINCE GEORGE’S COMMUNITY COLLEGE**  
**TITLE IX: SEX DISCRIMINATION PROCEDURE**  
**Effective: August 1, 2024**

**1. Purpose<sup>1</sup>**

Prince George’s Community College (“The College”) is committed to providing an educational and employment environment that is free from discrimination based on sex and retaliation. The College, as a recipient of federal financial assistance, is subject to Title IX of the Education Amendments of 1972 (“Title IX”), as amended. It is the College’s Policy not to discriminate on the basis of sex in its educational programs or activities including admissions and employment.

The College values and upholds the equal dignity of all members of its community and strives to balance the rights of parties in the resolution process during what is often a difficult time for all involved. To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the education program or activity, the College has policies and Procedures that provide for prompt, fair, and impartial resolution of all allegations of sex discrimination or retaliation. The College will act on any notice, complaint, or knowledge of a potential violation of this Procedure that is received by the Title IX Coordinator. This Procedure applies to all allegations of sex discrimination based on actual or perceived characteristics of sex, gender, gender identity, gender expression, or sexual orientation. Nothing in this Procedure is meant to supersede any provisions from any applicable collective bargaining agreement.

**2. Notice of Non-Discrimination**

The College complies with all federal, state, and local laws, regulations, and ordinances prohibiting discrimination in public post-secondary education institutions.

This Procedure covers sex discrimination in both employment and access to educational opportunities. Any member of the College community whose acts deny, deprive, unreasonably interfere with or limit the education or employment of another based on sex is in violation of the College’s Sexual Harassment, Sexual Misconduct, and Sex Discrimination Policy (031014) and this Procedure.

The College will promptly and effectively address any such sex discrimination of which it has knowledge/notice using the resolution process in this Procedure.

**3. Scope**

This Procedure prohibits sex discrimination and retaliation and is only applicable to alleged incidents of sex discrimination and retaliation that occur after August 1, 2024. For alleged incidents of sex discrimination and retaliation occurring prior to

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<sup>1</sup> This Procedure is based on the 2024 ATIXA Title IX Model Policy and Procedures (AMPP) ©2024 ATIXA. Used with permission.

August 1, 2024, the policy and procedure in place at the time of the alleged incident apply. Applicable versions of those policies and Procedures are available from the Title IX Coordinator. and at this link.

This Procedure applies to all faculty, employees, students, and other individuals, including vendors providing contractual services to the College, participating in or attempting to participate in the College's program or activities, including education and employment.

#### **4. Definitions**

The following definitions apply to this Procedure, and may not be the same as those in the Student Code of Conduct or the Employee Code of Conduct.

- a. **Administrative Resolution Process:** A resolution process that entails a formal investigation conducted by the College that results in a final determination. For sex-based discrimination allegations, the Single Investigator Model is used and consists of the same person serving as the Investigator and Decision-Maker. For sex-based harassment allegations, the Non-Hearing Separate Decision-Maker Model is used and consists of an Investigator, separate Decision-Maker, and cross-examination led by the Decision-Maker. The College does not utilize hearings for Title IX matters.
- b. **Advisor:** Any person chosen by a Party, or appointed by the institution, who may accompany the Party to all meetings and interviews related to the resolution process and advise the Party on that process.
- c. **Appeal Decision-Maker:** The person who accepts or rejects a submitted appeal request following a final determination and determines whether any of the grounds for appeal are met, and directs responsive action(s), accordingly.
- d. **Coercion:** Unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, 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.
- e. **Complainant:** A student or employee, who is alleged to have been subjected to conduct that could constitute sex discrimination and retaliation under the Procedure; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination or under the Procedure and who was participating or attempting to participate in the College's education program or activity at the time of the alleged sex discrimination and retaliation.
- f. **Complaint:** An oral or written request to the College that can objectively be understood as a request for the College to investigate and make a

- determination about an alleged violation of the College's Sexual Harassment, Sexual Misconduct, and Sex Discrimination Policy (031014).
- g. Confidential Employee: (1) An employee whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or (2) an employee whom the College has designated as confidential under this Procedure for the purpose of providing services to persons related to sex discrimination and retaliation. If the employee also has a duty not associated with providing those services, the employee's confidential status only applies with respect to information received about sex discrimination and retaliation in connection with providing those services; or (3) an employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination and retaliation. The employee's confidential status only applies with respect to information received while conducting the study.
  - h. Consent: Informed, knowing, and voluntary, with clear permission, by word or action, to engage in sexual activity, and can be withdrawn at any time.
  - i. Day: A business day when the College is in normal operation. All references in the Procedure to days refer to business days unless specifically noted as calendar days.
  - j. Decision-Maker: The person who hears evidence, determines relevance, and makes the final determination of whether the Sexual Harassment, Sexual Misconduct, and Sex Discrimination Policy (031014) has been violated and/or assigns sanctions.
  - k. Dismissal Appeal Officer: The person who accepts or rejects a submitted appeal request following the dismissal of a complaint, determines whether any of the grounds for appeal are met, and directs responsive action(s), accordingly.
  - l. Education Program or Activity: Locations, events and circumstances where the College has disciplinary authority, and to misconduct occurring within any building owned or controlled by the College or a College-recognized student organization.
  - m. Employee: A person employed by the College either full- or part-time, including student employees when acting within the scope of their employment.
  - n. False Allegations: Deliberately false and/or malicious accusations under this Procedure, as opposed to allegations which, even if erroneous or mistaken, are made in good faith. Examples include witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation.
  - o. Final Determination: A conclusion after the filing of a complaint, made by a preponderance of evidence by the Decision-Maker that the alleged

conduct did or did not violate the Sexual Harassment, Sexual Misconduct, and Sex Discrimination Policy (031014).

- p. Force: The use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.
- q. Incapacitation: A state where a person is incapable of giving consent because of their temporary or permanent mental or physical incapacity.
- r. Informal Resolution. A resolution process, that does not involve an investigation, voluntarily agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a final determination in a resolution process.
- s. Investigation Report: The Investigator's summary of all relevant evidence gathered during the investigation. Variations include the draft investigation report and the final investigation report.
- t. Investigator. The person(s) authorized by the College to gather facts about an alleged violation of this Procedure, assess relevance and credibility, synthesize the evidence, and compile this information into an investigation report.
- u. Knowledge: When the College receives notice of conduct that reasonably may constitute sex discrimination and retaliation in its education program or activity.
- v. Mandated Reporter<sup>2</sup>: A College employee who is obligated by this Procedure to share knowledge, notice, and/or reports of sex discrimination and retaliation with the Title IX Coordinator.
- w. Notice: When an employee, student, or third Party informs the Title IX Coordinator of the alleged occurrence of sex discrimination and/or retaliatory conduct.
- x. Parties: The Complainant(s) and Respondent(s), collectively.
- y. Pregnancy or Related Conditions: Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- z. Relevant Evidence: Evidence that may aid a Decision-Maker in determining whether the alleged sex discrimination and/or retaliation occurred, or in determining the credibility of the Parties or witnesses.
- aa. Remedies: Typically, post-resolution actions directed to the Complainant, Respondent, and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to the College's education program and activity.
- bb. Report: Notice to the Title IX Coordinator of an allegation or concern about sex discrimination and/or retaliation requiring the Title IX Coordinator to

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<sup>2</sup> Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of persons with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under this Procedure.

- provide resolution options, information, resources, and supportive measures to the Complainant or reporter.
- cc. Resolution Process: The complete process of investigation and/or resolution of allegations of prohibited conduct under this Procedure. The resolution processes are comprised of informal resolution or administrative resolution.
  - dd. Resolution Process Pool: Members of the Title IX team who are trained and tasked with implementing and completing components of a Title IX resolution process.
  - ee. Respondent: A person who is alleged to have engaged in conduct that could constitute sex discrimination and/or retaliation.
  - ff. Retaliation: Intimidation, threats, coercion, or discrimination against any person by the College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in a resolution process under this Procedure.
  - gg. Sanction: A consequence imposed by the College on a Respondent who is found to have violated the Sexual Harassment, Sexual Misconduct, and Sex Discrimination Policy (031014).
  - hh. Sex: Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
  - ii. Sex Discrimination: The act of treating someone unfavorably based on a person's actual or perceived sex, gender identity or expression, sexual orientation, pregnancy, or pregnancy-related condition. A collective term for sex-based discrimination and sex-based harassment.
  - jj. Sex-Based Discrimination: The different treatment, denial, or limiting of a person's access with respect to the person's employment or participation in the College's education program or activity based, in whole or in part, upon a person's actual or perceived sex, gender identity or expression, sexual orientation, pregnancy, or pregnancy-related condition.
  - kk. Sex-Based Harassment: Unwelcome conduct based on a person's actual or perceived sex, gender identity or expression, sexual orientation resulting in limiting or denying a person equal access to their education program or activity; and includes sexual assault, dating violence, domestic violence, and stalking.
  - ll. Student: Any person who has gained admission to the College.
  - mm. Supportive Measures: Non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a complaint or where no complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening either Party, including

measures designed to protect the safety of all parties or the College's educational environment or to deter sex discrimination.

- nn. Title IX Coordinator: An official designated by the College with primary responsibility for overseeing and ensure compliance with Title IX and this Procedure. References to the Title IX Coordinator throughout the Procedure may also encompass a designee of the Title IX Coordinator for specific tasks.
- oo. Title IX Team: The Title IX Coordinator, any deputy coordinators, and any member of the resolution process pool.

**5. Jurisdiction**

This Procedure applies to the College's education programs and activities in the United States, which includes but is not limited to conduct that occurs in any building owned or controlled by a College-recognized student organization and conduct that is subject to the College's disciplinary authority. The College is required to address sex-based hostile environment allegations in its education program or activity in the United States, even when some conduct alleged to be contributing to the hostile environment occurred outside of the College's education program or activity or outside the United States.

Examples of the College's Education Program and Activity may include:

- a. All College premises and Extension Centers, including any property/vehicles owned or leased by the College;
- b. All premises the College has permission to occupy for purposes of conducting a College-sponsored program or event;
- c. College-sponsored, College-recognized, or College-approved activities including, but not limited to:
  - i. Off-campus education programs and activities such as College-sponsored field trips and athletic team travel;
  - ii. Events for officially-recognized College clubs that occur off campus;
  - iii. Social activities for employees sponsored by the College or relating to the business of the College;
  - iv. Business travel, work-related conferences, or actions occurring in connection with College-related business; and
  - v. Online sex discrimination that occurs within the College's education program or activity (See Online Sex Discrimination, Section 9).

**6. Prohibited Conduct under Title IX**

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of sex discrimination and retaliation. This Procedure is not meant to inhibit or prohibit educational content or discussions

inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom.

The section below describes the specific forms of legally prohibited sex discrimination and retaliation that are prohibited under this Procedure. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of this Procedure, though supportive measures will be offered to those impacted.

All offense definitions below encompass actual and/or attempted offenses.

**a. Sex-Based Discrimination**

Sex-based discrimination is a form of sex discrimination and is the different treatment, denial, or limiting of a person's access with respect to the person's employment or participation in the College's education program or activity based, in whole or in part, upon a person's actual or perceived sex, gender identity or expression, sexual orientation, pregnancy, or pregnancy-related condition.

Sex-Based Discrimination can take two primary forms:

**i. Disparate Treatment Sex Discrimination**

Any intentional differential treatment of a person or persons that is based on an individual's actual or perceived sex, gender, gender identity or expression, sexual orientation, or pregnancy and pregnancy-related conditions and that:

- A. Excludes an individual from participation in;
- B. Denies the individual benefits of; or
- C. Otherwise adversely affects a term or condition of an individual's participation in a College program or activity

**ii. Disparate Impact Sex Discrimination**

Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person based on actual or perceived sex, gender, gender identity or expression, sexual orientation, or pregnancy and pregnancy-related conditions that:

- A. Excludes an individual from participation in;
- B. Denies the individual benefits of; or
- C. Otherwise adversely affects a term or condition of an individual's participation in a College program or activity.

**b. Sex-Based Harassment**

Sex-based harassment is a form of sex discrimination and is unwelcome conduct based on a person's actual or perceived sex, gender identity or expression, sexual orientation resulting in limiting or denying a person equal access to their education program or activity; and includes sexual assault, dating violence, domestic violence, and stalking. The College

reserves the right to address offensive conduct and/or sex-based harassment that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not based on sex through the College's student code of conduct or employee personnel procedures.

Sex-based harassment includes the following:

- i. Quid pro quo:** An employee, agent, or other person authorized by the College to provide an aid, benefit or service under the College's education program or activity, explicitly or impliedly conditioning the provision of such aid, benefit, or service on a person's participation in unwelcome sexual conduct.
- ii. Hostile Environment Harassment:** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive, and is so severe or pervasive, that it limits or denies a person's ability to participate in or benefit from the College's education program or activity.

**A. Examples of Hostile Environment**

Examples of hostile environment include, but are not limited to:

1. Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed);
2. Invasion of sexual privacy (e.g., doxxing);
3. Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression;
4. Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography;
5. Prostituting another person;
6. Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection;
7. Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that



person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity;

8. Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing);
  9. Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity;
  10. Knowingly soliciting a minor for sexual activity;
  11. Engaging in sex trafficking;
  12. Creating, possessing, or disseminating images, videos, or recordings of child sexual abuse material(s); or
  13. Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually-related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes).
- A. **Sexual Assault:** Any sexual act, including rape, sodomy, sexual assault with an object, or fondling directed against another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent; also, incest and statutory rape.
  - B. **Rape:** Penetration, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their temporary or permanent mental or physical incapacity.
  - C. **Sodomy:** Oral or anal penetration of the Complainant by the Respondent, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their age, or because of their temporary or permanent mental or physical incapacity.
  - D. **Sexual Assault with an Object:** Respondent's use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of the Complainant, without the consent of the Complainant, including instances where the Complainant is unable to give consent because of because of their age, or because of their temporary or permanent mental or physical incapacity.
  - E. **Fondling:** The touching of the private body parts (breasts, buttocks, groin) of the Complainant or Respondent or causing the Complainant to touch the Respondent's private body Party intentionally for a sexual purpose without the

consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their age, or because of their temporary or permanent mental or physical incapacity.

F. **Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Maryland law.

G. **Statutory Rape:** Nonforcible sexual intercourse with a person who is under the statutory age of consent of Maryland<sup>3</sup>.

iii. **Dating Violence:** Violence<sup>4</sup> committed by the Respondent against the Complainant, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant and where the existence of such relationship shall be determined based on a consideration on the following factors: (1) the length of the relationships; (2) the type of relationship; (3) the frequency of interaction between the persons involved in the relationship.

iv. **Domestic Violence:** Felony or misdemeanor crimes committed by a person who is (i) a current or former spouse or intimate partner of the Complainant under the family and domestic violence law of Maryland or a person similarly situated to a spouse of the Complainant; (ii) is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner; (iii) shared a child in common with the Complainant; or (iv) commits acts against a youth or adult Complainant who is protected from those acts under the domestic or family violence laws of the state of Maryland.

v. **Stalking:** Engaging in a course of conduct<sup>5</sup> on the basis of sex that is directed at a specific person that would cause a reasonable person<sup>6</sup> to— (i) fear for the person’s safety or (ii) the safety of others; or (iii) suffer substantial emotional distress.

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<sup>3</sup> In Maryland, in general, an individual can be convicted of statutory rape if the victim is under 16 and there is a 4-year age difference between the victim and the other individual. The law has stricter requirements for people in a position of authority, such as a teacher.

<sup>4</sup> For purposes of this Procedure, violence is defined as intentionally or recklessly causing the Complainant physical, emotional, or psychological harm. Legitimate use of violence for self-defense is not chargeable under this Procedure because the purpose is safety, not harm. Consensual use of violence, such as in kink relationships, would also not meet this definition, in most circumstances.

<sup>5</sup> For purposes of this definition, “A ‘course of conduct’ requires that there be more than one incident and the conduct must be directed at a specific person. Stalking can occur in person or using technology, and the duration, frequency, and intensity of the conduct should be considered. Stalking tactics can include, but are not limited to watching, following, using tracking devices, monitoring online activity, unwanted contact, property invasion or damage, hacking accounts, threats, violence, sabotage, and attacks. (Federal Register, Vol 89, No. 83, 04/29/2024, p. 33523). Merely annoying conduct, even if repeated, is a nuisance, but is not typically chargeable as stalking

<sup>6</sup> Reasonable person is an objective standard meaning a person in the Complainant’s shoes (having similar characteristics/demographics to the Complainant).

7. **Other Prohibited Conduct under Title IX**

**a. Retaliation**

Retaliation is an adverse action, including discipline, intimidation, threats, coercion, or discrimination against any person by the College, a student, employee, or a person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by law or this Procedure; or because the person has engaged in protected activity, including reporting information, making a complaint, testifying, assisting or participating or refusing to participate in any manner in an investigation or resolution process under this Procedure or because the person has engaged in any other appropriate steps taken by the College to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects. This includes peer retaliation, which is retaliation by a student against another student.

The exercise of rights protected under the First Amendment does not constitute retaliation. It is also not retaliation for the College to act against those who make materially false statements in bad faith in the course of an investigation under this Procedure. However, a final determination with respect to a claim of sex discrimination is not by itself sufficient to conclude that any Party has made a materially false statement in bad faith.

**b. Pattern Offenses**

Any prohibited conduct under this Procedure can be charged as or combined as pattern offenses, in which case the notice of investigation and allegation will clearly indicate that both individual incidents and a pattern of conduct are being investigated. A pattern may exist and be charged when there is a potential substantial similarity to incidents where the proof of one could make it more likely that the other(s) occurred, and vice-versa. Patterns may exist based on target selection, similarity of offense, or other factors. Where a pattern is found, it can be the basis to enhance sanctions.

**c. Unauthorized Disclosure<sup>7</sup>**

Unauthorized disclosure is distributing or otherwise publicizing materials created or produced during an investigation or resolution process except as required by law or as expressly permitted by the College, or publicly disclosing another Party's personally identifiable information without authorization or consent.

Parties and Advisors are prohibited from unauthorized disclosure of

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<sup>7</sup> Nothing in this section restricts the ability of the Parties to: obtain and present evidence, including by speaking to witnesses (as long as it does not constitute retaliation under this Procedure), consult with their family members, Confidential Employees, or Advisors; or otherwise prepare for or participate in the resolution process.

information obtained by the College through the resolution process to the extent that information is the work product of the College (meaning it has been produced, compiled, or written by the College for purposes of its investigation and resolution of a complaint). It is also a violation of the College's Educational Records Policy (061006) to publicly disclose work product or a Party's personally identifiable information without authorization or consent. An unauthorized disclosure is subject to significant sanctions.

**d. Failure to Comply/Process Interference**

The following is a non-exhaustive list of examples of failure to comply or process interference:

- i.** Intentional failure to comply with the reasonable directives of the Title IX Coordinator or designee in the performance of their official duties, including with the terms of a no contact order;
- ii.** Intentional failure to comply with emergency removal or interim suspension terms;
- iii.** Intentional failure to comply with sanctions;
- iv.** Intentional failure to adhere to the terms of an agreement achieved through the informal resolution process;
- v.** Intentional failure to comply with mandated reporter duties as defined in the Procedure;
- vi.** Intentional interference with the Title IX resolution process, including, but not limited to:
  - A. Destruction of or concealing of evidence;
  - B. Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence; or
  - C. Intimidating or bribing a witness or Party.

**8. Consent, Force, Coercion, Incapacitation, and Unethical Relationships**

In this Procedure, the following definitions and understandings apply:

**a. Consent**

Consent must be informed, knowing, and voluntary, with clear permission, by word or action, to engage in sexual activity.

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each Party to determine that the other has consented before engaging in the activity. If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent is evaluated from the perspective of what a reasonable person would conclude are mutually understandable words or actions. Reasonable reciprocation can establish consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to be kissed back.

Consent can also be withdrawn at any time. If consent is withdrawn, sexual activity should cease within a reasonably immediate time. Silence or the absence of resistance alone should not be interpreted as consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Consent to some sexual contact (such as kissing or fondling) cannot be assumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected. If a sexual partner shares the clear expectation for the use of a condom, or to avoid internal ejaculation, and those expectations are not honored, the failure to use a condom, removing a condom, or internal ejaculation can be considered acts of sexual assault.

Proof of consent or non-consent is not a burden placed on either Party involved in a resolution process. Instead, the burden remains on the College to determine whether the College's Sexual Harassment, Sexual Misconduct, and Sex Discrimination Policy (031014) has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Going beyond the boundaries of consent is prohibited. Thus, unless a sexual partner has consented to slapping, hitting, hair pulling, strangulation, or other physical roughness during otherwise consensual sex, those acts may constitute dating violence or sexual assault.<sup>8</sup>

## **b. Force**

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<sup>8</sup> Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline, sadism, masochism) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying "no" may be part of the kink and thus consensual.

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”).

**c. Coercion**

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person’s consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, 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. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

**d. Incapacitation**

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

Incapacity may also result from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances. Incapacitation is determined through consideration of all relevant indicators of a person’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of this Procedure. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment, including if the alleged Respondent is under the influence of drugs or alcohol.

**e. Unethical Relationships**

The College Employee and Student Relationship Policy (081033) prohibits romantic and/or sexual relationships between College employees and

students. There are inherent risks in any romantic or sexual relationship between persons in unequal positions, such as faculty member-student or supervisor-employee. In reality, these relationships may be less consensual than perceived by the person whose position confers power or authority. Similarly, each of the Parties may view the relationship differently, particularly in retrospect. Circumstances may change, and once welcomed conduct may become unwelcome at some point in the relationship.

Even when the Parties have initially consented to romantic or sexual involvement, the possibility of a later violation of other College Policy or Procedure still exists. The College does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the College's goals and policies. However, for the personal protection of members of this community, relationships in which power differentials are inherent (e.g., faculty-student, staff-student) are prohibited under College Employee and Student Relationship Procedure (081033CP), except for where the relationship began prior to one or both individuals becoming an employee or student, in which case the individuals must still report the existence of the relationship to the College and follow applicable procedures. Such relationships may also violate standards of professionalism and/or professional ethics.

Failure to comply with the Employee and Student Relationship Procedure can result in disciplinary action for an employee. The Title IX Coordinator will determine whether to refer violations of this provision to the Office of Equity, Culture, and Talent for resolution, or to pursue resolution under this Procedure, based on the circumstances of the allegation.

**9. Online Sex Discrimination**

The College's policies and Procedures are written and interpreted broadly to include online and cyber manifestations of any of the behaviors prohibited by Title IX when those behaviors occur in or have an effect on the College's education program and activities or use the College's networks, technology, or equipment. This includes when conduct is alleged to be contributing to a hostile environment at the College, but the conduct is occurring outside of the College's education program or activity or outside of the U.S.

Although the College may not control websites, social media, and other venues in which harassing or discriminatory communications are made, when such communications are reported to the College, it will engage in a variety of means to address and mitigate the effects. These means may include use of the resolution process to address off-campus conduct whose effects contribute to limiting or denying a person access to the College's education program or activity. Nothing in

this Procedure is intended to infringe upon or limit a person's rights to free speech. Any online posting or other electronic communication by students, including technology-facilitated bullying, stalking, harassment, etc., occurring completely outside of the College's control (e.g. not on College networks, websites, or between College email accounts) will only be subject to this Procedure when such online conduct can be shown to cause or will likely contribute to a hostile environment at the College. Otherwise, such communications are considered speech protected by the First Amendment.

**10. Inclusion Related to Gender Identity/Expression**

The College strives to ensure that all individuals are safe, included, and respected in their working and learning environments, regardless of their gender identity or expression, including intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse students and employees.

Discrimination and harassment on the basis of gender identity or expression are not tolerated by the College. If a member of the College community believes they have been subjected to sex discrimination under this Procedure, they should follow the appropriate reporting process described herein.

In upholding the principles of equity and inclusion, the College supports the full integration and healthy development of those who are transgender, transitioning, nonbinary, or gender-diverse, and seeks to eliminate any stigma related to gender identity and expression.

The College is committed to fostering a climate where all identities are valued, contributing to a more vibrant and diverse community. The purpose of this Procedure is to have the College address issues that some students and employees, including those identifying as intersex, transgender, agender, nonbinary, and gender-diverse, may confront as they navigate systems originally designed around the assumption that gender is binary. As our society's understanding of gender evolves, so does the College's policies and procedures.

Misgendering or mispronouncing is the intentional or unintentional use of pronouns or identifiers that are different from those used by an individual. Unintentionally misgendering is usually resolved with a simple apology if someone clarifies their pronouns for you. Intentional misgendering is inconsistent with the type of community we hold ourselves out to be and may constitute a violation of the College's Sexual Harassment, Sexual Misconduct, and Sex Discrimination Policy (031014). We each have a right to determine our own gender identity and expression, but we do not get to choose or negate someone else's.



Deadnaming, along with misgendering, can be very traumatic to a person who is transgender, transitioning, nonbinary, or gender-diverse. Deadnaming meaning using someone's birth-assigned (cisgender) name, rather than the name they have chosen.

To a person who is transgender, transitioning, nonbinary, or gender-diverse, their cisgender identity may be something that is in their past -- dead, buried, and behind them. To then revive their deadname could trigger issues, traumas, and experiences of the past that the individual has moved past, or is moving past, and can interfere with their health and well-being.

Again, unintentional deadnaming can be addressed by a simple apology and an effort to use the person's chosen name. Intentional deadnaming could be a form of bullying, outing, or otherwise harassing an individual, and thus should be avoided.

This Procedure should be interpreted consistent with the goals of maximizing the inclusion of intersex, transgender, transitioning, agender, nonbinary, and gender-diverse students and employees, including:

- Maintaining the privacy of all individuals consistent with law
- Ensuring all students have equal access to educational programming, activities, and facilities, including restrooms and locker rooms
- Ensuring all employees have equal access to employment opportunities and work, service, or health-related facilities, including restrooms and locker rooms
- Providing professional development for employees and education for students on topics related to gender inclusion
- Respecting the pronoun usage and identities of all members of the College community

The College uses a number of interventions to address concerns that are raised related to gender-based harassment or discrimination, including problem-solving, intervention, confrontation, investigation, and Policy enforcement. When conflicts arise between the right of members of the community to be free from gender-identity discrimination and those exercising their right to religious freedom, the College will try to balance rights and interests to find mutually agreeable outcomes or compromises. When that is not possible, the College will offer remedial solutions or enforce its policies while also respecting the rights of all members of its community.

11. **Title IX Team**
  - a. **Role of the Title IX Coordinator**

The Title IX Coordinator oversees implementation of the College's process for compliance with Title IX regulations. The Title IX Coordinator has primary responsibility for coordinating the College's efforts related to the intake, investigation, and resolution of Title IX related matters, as well as implementation of supportive measures to stop, remediate, and prevent sex discrimination and retaliation.

The College has a Title IX Team, comprised of the Title IX Coordinator, a Deputy Title IX Coordinator for Student Affairs and a Deputy Title IX Coordinator for Equity Culture and Talent, to coordinate the College's compliance with federal, state, and local civil rights laws and ordinances related to sex discrimination. The Title IX Coordinator contact information is below:

Title IX Coordinator

**Shaundricka Ranel**

Role: Senior Director of Policy, Compliance, and Title IX

Address: 301 Largo Road, Kent Hall 133

Largo, MD 20774

Office Location: Largo Campus, Kent Hall 133

Office Phone: 301-546-7011

Email: [TitleIX@pgcc.edu](mailto:TitleIX@pgcc.edu) or [Ranelsm@pgcc.edu](mailto:Ranelsm@pgcc.edu)

Website: <https://www.pgcc.edu/about-pgcc/institutional-information--policies/title-ix/>

Collectively, the Title IX Team is responsible for providing comprehensive education and training regarding sex discrimination; coordinating the College's timely, thorough, fair response, investigation, and resolution of all alleged prohibited conduct under this Procedure; and monitoring the effectiveness of this Procedure to ensure an education and employment environment free from sex discrimination and retaliation.

The College recognizes that allegations under this Procedure may involve various combinations of students, employees, and other members of the College community; and may request the simultaneous attention of multiple College departments. Accordingly, all College departments will share information, combine efforts, and otherwise collaborate to the maximum extent permitted by law and consistent with other applicable College policies, to provide uniform, consistent, efficient, and effective responses to alleged sex discrimination, sex-based harassment, and retaliation.

**b. Resolution Process Pool**

The resolution process relies on a pool of administrators (the Pool) to carry out the process.<sup>9</sup>

**i. Pool Member Roles**

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<sup>9</sup> External, trained third-party neutral professionals may also be used to serve in resolution process pool roles

Members of the Pool are trained annually, and can serve in the following roles at the discretion of the Title IX Coordinator:

- Appropriate intake of and initial guidance pertaining to complaints
- Advisor to Parties
- Informal Resolution Facilitator
- Investigator
- Emergency Removal Arbitrator
- Supportive Measures Arbitrator
- Decision-Maker
- Appeal of Dismissal Decision-Maker
- Appeal Decision-Maker

**ii. Pool Member Appointment**

The Title IX Team, in consultation with senior administrators as necessary, appoints the Pool, whose members act with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different Title IX matters, the College can also designate permanent roles for individuals in the Pool.

**c. Independence and Conflicts of Interest**

The Title IX Coordinator oversees the implementation of the College's process for compliance with the Title IX regulations, 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 Procedure. 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 President or the Vice President for Policy & General Counsel. Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Title IX Team members or resolution process pool should be raised with the Title IX Coordinator.

**d. Ensuring Impartiality**

Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator and the resolution process pool may neither have nor demonstrate a conflict of interest or bias for a Party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator or designee will vet the resolution process pool for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the resolution process, the Parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another pool member will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator concerns should be raised with the Vice President of Policy and General Counsel or the College President.

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

**12. External Title IX Contact Information**

Concerns about the College's application of this Procedure may also be addressed to:

**Office for Civil Rights (OCR) Headquarters**

Office for Civil Rights

U.S. Department of Education

400 Maryland Avenue, SW

Washington, D.C. 20202-1100

Customer Service Hotline: (800) 421-3481

Facsimile: (202) 453-6012

TDD: (877) 521-2172

Email: [OCR@ed.gov](mailto:OCR@ed.gov)

Web: <http://www.ed.gov/ocr>

**State of Maryland Local Office for the Office for Civil Rights**

Office for Civil Rights, Philadelphia Office

U.S. Department of Education

The Wanamaker Building

100 Penn Square East, Suite 515

Philadelphia, PA 19107-3323

Telephone: (215) 656-8541

Facsimile: (215) 656-8605

Email: [OCR.Philadelphia@ed.gov](mailto:OCR.Philadelphia@ed.gov)

Nothing in this process is meant to preempt or foreclose the pursuit of other remedies available to alleged victims of sex discrimination under applicable state or federal statutes and regulations.

**13. Mandated Reporting and Confidential Employees**

All College faculty and employees (including student-employees), other than those deemed Confidential Employees, are mandated reporters and are required to promptly report all known details of actual or suspected sex discrimination and retaliation to the Title IX Coordinator either verbally or in writing. Additionally, mandated reporters are required to provide the reporter with the Title IX Coordinator's contact information and information on how to make a complaint of sex discrimination. Once the mandated reporter provides such notice, the Title IX Coordinator is obligated to take appropriate steps to address the situation under this Procedure.

Complainants may want to carefully consider whether they share personally identifying details with mandated reporters, as those details must be shared with the Title IX Coordinator.

Nothing in this Procedure shall supersede the legal obligations of a College employee or the College to comply with Maryland mandatory reporting laws requiring reports of abuse, sexual abuse, neglect, or exploitation of elderly persons, disabled persons, or individuals under the age of 18.

**a. Confidential Employees**

To enable Complainants to access support and resources without filing a complaint, Complainants may report alleged violations of this Procedure to Confidential Employees. Confidential Employees are prohibited from reporting actual or suspected sex discrimination or retaliation in a way that identifies the Parties and must explain their status as a Confidential Employee to the Complainant. The Confidential Employee will provide the Complainant with the Title IX Coordinator's contact information, explain how to make a complaint of sex discrimination, and that the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under this Procedures. The Confidential Employee is prohibited from informing an outside agency or the Title IX Coordinator of the allegation unless a Complainant has requested the information be shared.

Only Confidential Employees are prohibited from providing notice to the Title IX Coordinator; all other PGCC employees, including those who may hold positions outside of PGCC that are commonly considered confidential (i.e., clergy, counselor, therapist) are mandated reporters.

The following are Confidential Employees:

- i. Mental Health and Wellness Center employees and staff (including student-employees), located at Bladen Hall, Room 132, 301 Largo Road, Largo, MD 20774-2199, Phone:(301) 546-

0845 (weekdays, 8:30 a.m.-4:30 p.m.), Email:

[CounselingServices@pgcc.edu](mailto:CounselingServices@pgcc.edu)

- ii. Equity, Culture, and Talent's Total Rewards employees, located at Annex B, 301 Largo Road, MD, 20774-2199. Phone: (301) 546-0680 (weekdays, 8:30a.m. – 4:30p.m.), Email: [ECT-Benefits-Comp@pgcc.edu](mailto:ECT-Benefits-Comp@pgcc.edu).

PGCC offers the Employee Assistance Program (EAP) to PGCC employees and their household members. The services are free, confidential, and available 24/7 to help with personal or professional problems that may interfere with work or family responsibilities. EAP can provide referrals or services for mental health, childcare, elder care, and financial. More information on PGCC's EAP can be found on the Equity Culture and Talent Portal page.

Confidential Employees who learn of incidents of sex discrimination within the scope of their confidential roles will timely submit anonymous non-personally-identifying information to the College's Clery Officer for Clery Act purposes unless they believe it would be harmful to the Complainant.

Failure of a mandated reporter to report an incident of sex discrimination or retaliation of which they become aware is a violation of College Policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations where the misconduct is being done by a mandated reporter. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under this Procedure.

A mandated reporter who is themselves a target of sex discrimination or retaliation under the Procedure is not required to report their own experience, though they are encouraged to do so.

**14. Complaints and Reporting of Sex Discrimination**

Upon receipt of notice, a complaint, or knowledge of an alleged Title IX violation, the Title IX Coordinator will initiate a prompt initial evaluation to determine the College's next steps. The Title IX Coordinator will contact the Complainant and/or source of the notice to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.

**a. Reports/Complaints of Sex Discrimination and Retaliation**

A report provides notice to the College of an allegation or concern about sex discrimination and/or retaliation and provides the opportunity for the Title IX Coordinator to provide resolution options, information, resources, and supportive measures to the Complainant or reporter. A complaint provides notice to the College that the Complainant would like to initiate an investigation or other appropriate resolution Procedure. A

Complainant or individual may initially make a report and may decide at a later time to make a complaint. Reports or complaints of sex discrimination and retaliation may be made using the following options:

- i. Verbal, in-person, or written notice to the Title IX Coordinator. Such notice may be made at any time (including non-business hours) by calling 301-546-7011, emailing [TitleIX@pgcc.edu](mailto:TitleIX@pgcc.edu), or in-person or by mailing to the Title IX Coordinator at 301 Largo Road, Kent Hall 133, Largo, MD, 20774.
- ii. Submit an online complaint with the Title IX Reporting Form ([https://cm.maxient.com/reportingform.php?PrinceGeorgesCC&layout\\_id=2](https://cm.maxient.com/reportingform.php?PrinceGeorgesCC&layout_id=2)) located on the Prince George's Community College website under the "Student Complainant Form and Incident Report" link, option 5.
- iii. Anonymous reports are accepted via the online Title IX reporting form listed above, but the notice may give rise to a need to try to determine the Parties' identities. Anonymous notice typically limits the College's ability to investigate, respond, and provide remedies, depending on what information is shared. It also may not be possible to provide supportive measures to Complainants who are the subject of an anonymous notice.

Reporting carries no obligation to initiate an investigation, and in most situations, the College is able to respect a Complainant's request to not initiate an investigation and instead discuss and/or provide supportive measures. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety where the College may need to initiate an investigation. In this situation, the College will maintain the privacy of information, including the identities of the reporter and/or Complainant, to the extent possible.

**b. Time Limits on Reporting**

There is no time limitation on providing notice or submitting a complaint to the Title IX Coordinator. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be limited or impossible.

Acting on a report or complaint is significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy and Procedures) and is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

15. **Emergency Removal**

**a. Student's Emergency Removal**

The College may at any time during the resolution process effectuate an emergency removal of a student accused of sex discrimination, partially or entirely, on an emergency basis when an individualized safety and risk

analysis has determined that an immediate threat to the health or safety of any student justifies such removal. Prior to an emergency removal, a risk analysis is performed by the Title IX Coordinator in conjunction with the College's Behavioral Intervention Team using its standard objective risk assessment Procedure.

When an emergency removal is imposed, the affected student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal within two (2) business days of the notification. Upon receipt of a challenge, the Title IX Coordinator will meet with the student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s) in the notice, knowledge, or complaint, but rather is an administrative process intended to determine solely whether the emergency removal is appropriate, should be modified, or lifted. When this meeting is not requested within two (2) business days, objections to the emergency removal will be deemed waived. A student can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Title IX Coordinator for review.

An emergency removal may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Title IX Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

During the pendency of the emergency removal challenge, the initially determined emergency removal shall remain in place.

**b. Employee's Emergency Removal**

When the Respondent is an employee, or a student employee accused of misconduct in the course of their employment, existing provisions under the College's Leave Program Policy (081005) and the Administrative Leave Procedure (081005CP-05) are typically applicable instead of the above emergency removal process. Unionized employees are subject to any additional leave terms in any applicable collective bargaining agreements.

**16. Standard of Proof**



The College uses the preponderance of evidence standard of proof when investigating Title IX matters. This means that the College will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent has engaged in conduct in violation of this Procedure.

The burden of proof and the burden of gathering sufficient evidence to reach a determination rests on the College, and not the Parties.

**17. Resolution Process Overview**

The College uses two different types of resolution processes to address sex discrimination allegations: the informal resolution process and the administrative resolution process.

The informal resolution process is only available in sex-based discrimination matters.

The administrative resolution process used by the College is dependent on the type of alleged violation. For sex-based discrimination allegations, the Single Investigator Model is used and consists of the same person serving as the Investigator and Decision-Maker. For sex-based harassment allegations, the Non-Hearing Separate Decision-Maker Model is used and consists of an Investigator, separate Decision-Maker, and cross-examination led by the Decision-Maker. The College does not utilize hearings for Title IX matters.

**18. Resolution Timeline**

The College will make a good faith effort to complete the resolution process within ninety (90) business days, including any appeals, which can be extended, on a case-by-case basis, for good cause as determined by the Title IX Coordinator.

The College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to delay the investigation temporarily, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. The College will promptly resume its resolution process as soon as feasible. During such a delay, the College will implement and maintain supportive measures for the Parties as deemed appropriate.

The College's actions or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

The College will make a good faith effort to complete the resolution process as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress, timing of the process, and the reason for the delay.

Matters 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 resolved after the end of the term, including during the summer, as needed, to meet the College's resolution timeline and ensure a prompt resolution. Employees who do not have 12-month contracts are still expected to participate in resolution processes that occur during months between contracts.

**19. Supportive Measures**

The College will offer and implement appropriate and reasonable supportive measures to the Parties upon notice of alleged sex discrimination and retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, and as reasonably available. They are offered without fee or charge to the Parties to restore or preserve access to the College's education program or activity, including measures designed to protect the safety of all Parties and/or the College's educational environment and/or to deter sex discrimination and retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice, knowledge or a complaint. At the time that supportive measures are offered, if a complaint has not been filed, the College will inform the Complainant, in writing, that they may file a complaint with the College either at that time or in the future. The Title IX Coordinator will work with the Complainant to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

The College will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the College's ability to provide those supportive measures. The College will act to ensure as minimal an academic/occupational impact on the Parties as possible. The College will implement supportive measures in a way that does not unreasonably burden either Party.

The Title IX Coordinator renders decisions on supportive measures within seven (7) business days of receiving a request and provides a written determination to the impacted Party(ies).

Supportive measures include, but are not limited to:

- a. Providing information on available medical services;
- b. Offering access to counseling services and assistance in setting up initial counseling appointment, either on- or off-campus, including a referral to the Employee Assistance Program for employees;
- c. Referral to community-based service providers;
- d. Safety planning;
- e. Student financial aid counseling;

- f. Education to the College community or community subgroup(s);
- g. Implementing contact limitations (No Contact Letter) between the parties (*i.e.*, an official College directive that serves as notice to the parties that they must not have verbal, electronic, written, or third-party communications with each other);
- h. Trespass or Be-On-the-Lookout (BOLO) orders;
- i. Timely warnings;
- j. Class schedule modifications, withdrawals, leaves of absence, department transfer;
- k. Limiting an individual's access to certain College facilities or activities pending resolution of the matter;
- l. Altering work arrangements for employees or student-employees;
- m. Imposing emergency suspension or College-imposed leave, pursuant to the appropriate College Policy and/or Procedure;
- n. Providing campus escort services;
- o. Increased security and monitoring of certain areas of campus;
- p. Offering academic support, including extension in deadlines, tutoring, providing alternative course completion options (with the agreement of the appropriate faculty), or transfer in class section (with the agreement of the appropriate faculty);
- q. Offering employment support, which may include supervisors considering the reallocation of tasks or provision of additional supports and providing regular check-ins related to reallocated tasks; and
- r. Any other actions deemed appropriate by the Title IX Coordinator.

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing complaint under this Procedure.

The Parties are provided with a timely opportunity to seek modification or reversal of the College's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Title IX Coordinator who will notify the Supportive Measures Adjudicator. A Supportive Measures Adjudicator is an impartial employee other than the Title IX Coordinator who will determine whether to provide, deny, modify, or terminate the supportive measures. The College will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances change materially. For an appeal of supportive measures, the College typically renders a decision on the modification within seven (7) business

days of receiving the request, and the Supportive Measures Adjudicator provides a written determination to the impacted Party(ies) and the Title IX Coordinator.

**20. Initial Evaluation by Title IX Coordinator**

The Title IX Coordinator conducts an initial evaluation typically within five (5) days of receiving a report or complaint of alleged sex discrimination.<sup>10</sup> The initial evaluation typically includes:

- Assessing whether the reported conduct may reasonably constitute a violation of this Procedure. If the conduct may not reasonably constitute a violation, the matter is typically dismissed from this process. It may then be referred to another process, if applicable.
- Determining whether the College has jurisdiction over the reported conduct, as defined in this Procedure. If the conduct is not within the College’s jurisdiction, the matter is typically dismissed from this process. If applicable, the conduct will be referred to the appropriate College office for resolution.
- Offering and coordinating supportive measures for the Complainant.
- Offering and coordinating supportive measures for the Respondent, if Respondent is made aware of the report or complaint.
- Notifying the Complainant, or the person who reported the allegation(s), of the resolution processes described below, including a supportive and remedial response.
- Determining whether the Complainant wishes to make a complaint.
- If a complaint is made, notifying the Respondent of the resolution processes, including a supportive and remedial response, an informal resolution option (if applicable), or the resolution process described below.

**a. Helping a Complainant to Understand Options**

If the Complainant indicates they wish to initiate a complaint, the Title IX Coordinator will help to facilitate the complaint, which will include working with the Complainant to determine whether the Complainant wishes to pursue the informal resolution process (if applicable) or the administrative resolution process, each of which include a supportive and remedial response. The Title IX Coordinator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation. Informal resolution requires the consent of both Parties.

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<sup>10</sup> If circumstances require, the College President or Title IX Coordinator will designate another person to oversee the resolution process should an allegation be made about the Title IX Coordinator or the Title IX Coordinator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no resolution process will be initiated (unless deemed necessary by the Title IX Coordinator), though the Complainant can elect to initiate one later, if desired.

**i. Supportive Measures Only**

The Title IX Coordinator may resolve a matter informally by providing supportive measures (only) designed to remedy the situation. The Title IX Coordinator will meet with the Complainant to determine reasonable supportive measures that are designed to restore or preserve the Complainant's access to the College's education program and activity. Such measures can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the notice of investigation and allegations, the Title IX Coordinator may also provide reasonable supportive measures for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage in an informal resolution process (if applicable) or administrative resolution process, and the Title IX Coordinator does not initiate a complaint.

**ii. Title IX Coordinator's Authority to Initiate a Complaint**

If the Complainant does not wish to file a complaint, the Title IX Coordinator will offer supportive measures and determine whether to initiate a complaint themselves. To make this determination, the Title IX Coordinator will evaluate the notice or complaint to determine if there is a serious and imminent threat to someone's safety or if the College cannot ensure equal access without initiating a complaint. The Title IX Coordinator will consider the following non-exhaustive factors to determine whether to file a complaint:

- A.** The Complainant's request not to proceed with initiation of a complaint;
- B.** The Complainant's reasonable safety concerns regarding initiation of a complaint;
- C.** The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
- D.** The severity of the alleged sex discrimination, including whether the sex discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the sex discrimination and prevent its recurrence;

- E. The age and relationship of the Parties, including whether the Respondent is a College employee;
- F. The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
- G. The availability of evidence to assist a Decision-Maker in determining whether sex discrimination occurred;
- H. Whether the College could end the alleged sex discrimination and prevent its recurrence without initiating its resolution process.

If deemed necessary, the Title IX Coordinator may consult with appropriate College employees and/or conduct a violence risk assessment (guidance located in Appendix F) to aid their determination whether to initiate a complaint.

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

**21. Dismissal of Complaint**

The College may dismiss a complaint if, at any time during the resolution process, one or more of the following grounds are met:

- a. The College is unable to identify the Respondent after taking reasonable steps to do so;
- b. The College no longer enrolls or employs the Respondent;
- c. A Complainant voluntarily withdraws all of the allegations in the complaint, and the Title IX Coordinator declines to initiate a complaint; or
- d. The College determines the conduct alleged in the complaint would not constitute a violation of the College's Sexual Harassment, Sexual Misconduct, and Sex Discrimination Policy (031014) or this Procedure, if proven.

A Decision-Maker can recommend dismissal to the Title IX Coordinator, if they believe the grounds are met. A Complainant who decides to withdraw a complaint may later request to reinstate or refile it.

Upon any dismissal, the College will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, the College will also notify the Respondent of the dismissal.

The dismissal of a complaint decision is appealable by any Party.

**22. Appeal of Dismissal of a Complaint**

The Complainant may appeal a dismissal of their complaint to the Title IX Coordinator in writing. The Title IX Coordinator will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the complaint, the Title IX Coordinator must then provide the Respondent with a notice of investigation and allegations and will notify the Respondent of the Complainant's appeal with an opportunity to respond. If dismissal of the complaint occurs after the Respondent has been made aware of the allegations, the Respondent may also appeal the dismissal of the complaint. All dismissal of complaint appeal requests must be filed within three (3) business days of the notification of the dismissal.

- a.** Throughout the dismissal appeal process, the College will:
  - i.** Implement dismissal appeal procedures equally for the Parties;
  - ii.** Assign a trained Dismissal Appeal Officer who did not take part in an investigation of the allegations or dismissal of the complaint;
  - iii.** Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal; and
  - iv.** Notify the Parties of the result of the dismissal appeal and the rationale for the result.
- b.** The grounds for dismissal appeals are limited to:
  - i.** Procedural irregularity that would change the outcome;
  - ii.** New evidence that would change the outcome and that was not reasonably available when the dismissal was decided;
  - iii.** The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome; or
  - iv.** The grounds of dismissal were erroneously granted or denied.

Upon receipt of a dismissal appeal in writing from one or more Parties, the Title IX Coordinator will share the dismissal appeal petition with the other Party and provide three (3) business days for other Parties to respond to the request. The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. At the conclusion of the response period, the Title IX Coordinator will forward the dismissal appeal petition, as well as any response provided by the other Parties to the Dismissal Appeal Officer for consideration.

If the dismissal appeal petition does not provide information that meets the grounds in this Procedure, the request will be denied by the Dismissal Appeal Officer. The

Dismissal Appeal Officer will notify and the Parties, their Advisors, and the Title IX Coordinator in writing of the denial and the rationale.

If any of the asserted grounds in the dismissal appeal petition satisfy the grounds described in this Procedure, then the Dismissal Appeal Officer will notify all Parties and their Advisors, and the Title IX Coordinator, of their decision and rationale in writing. The effect will be to reinstate the complaint.

Dismissal appeals are confined to a review of the written documentation, and information submitted by Party(ies) in the dismissal appeal petition and responses. The Dismissal Appeal Officer has seven (7) business days to review and decide on the dismissal appeal, though extensions can be granted, on a case-by-case basis for good cause and at the discretion of the Title IX Coordinator, and the Parties will be notified of any extension.

Dismissal appeal decisions are deferential to the initial evaluation, making changes only if dismissal appeal grounds are met.

The Dismissal Appeal Officer may consult with the Title IX Coordinator and/or the College's General Counsel on questions of procedure or rationale for clarification, if needed. The Title IX Coordinator will maintain documentation of all such consultation.

**23. Informal Resolution Process**

The College permits informal resolution in sex discrimination matters only. Informal resolution is not offered in sex-based harassment matters

**a. Initiation of Informal Resolution Process**

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

Once informal resolution is voluntarily agreed to by the Parties, the College will provide the Parties with a notice of investigation and allegations that explain:

- i.** The allegations;
- ii.** The requirements of the informal resolution process;
- iii.** That, prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and to initiate or resume the College's resolution process; and
- iv.** That the Parties' agreement to a resolution at the conclusion of the informal resolution process will preclude the Parties from initiating or resuming the resolution process arising from the same allegations;



- v. The potential terms that may be requested or offered in an informal resolution agreement, including notification that an informal resolution agreement is binding only on the Parties; and
- vi. What information the College will maintain, and whether and how it could disclose such information for use in its resolution process.

The Informal Resolution Facilitator is trained and cannot be the Investigator, Decision-Maker, or Appeal Decision-Maker.

It is not necessary to pursue informal resolution first in order to pursue an administrative resolution process. Any Party participating in informal resolution can withdraw from the informal resolution process at any time and initiate or resume the administrative resolution process.

The Parties may agree, as a condition of engaging in informal resolution, on what statements made or evidence shared during the informal resolution process will not be considered in the administrative resolution process should informal resolution not be successful, unless all Parties later agree it should be considered.

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

**b. Forms of Informal Resolution**

The College offers the following forms of informal resolution:

**i. Educational Conversation**

The Title IX Coordinator or designee can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and College expectations or can accompany the Complainant in their desire to confront the Respondent.

The Complainant(s) may request that the Title IX Coordinator or designee address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and College policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the informal resolution for the matter if it takes place. In light of the conversation, or the Respondent's decision not to attend, the Title IX Coordinator may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of recurrence of any behaviors that may not align with Policy,

including continuing the administrative resolution process or initiating a complaint.

The results of matters resolved by an Educational Conversation are not appealable.

**ii. Alternative Resolution**

When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below, the College offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the Title IX Coordinator or other appropriate College officials; and other forms of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.

The Title IX Coordinator may consider the following factors to assess whether alternative resolution is appropriate, or which form of alternative resolution may be most successful for the Parties:

- The Parties' amenability to alternative resolution
- Likelihood of potential resolution, considering any power dynamics between the Parties
- The nature and severity of the alleged misconduct
- The Parties' motivation to participate
- Civility of the Parties
- Results of a violence risk assessment/ongoing risk analysis
- Respondent's disciplinary history
- Whether an emergency removal or other interim action is needed
- Complaint complexity
- Emotional investment/capability of the Parties
- Rationality of the Parties
- Goals of the Parties

- Adequate resources to invest in alternative resolution (e.g., time, staff, etc.)

The Title IX Coordinator has the authority to determine whether alternative resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, including through their Advisors, and may include terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. The Title IX Coordinator will determine whether additional individual or community remedies are necessary to meet the College's compliance obligations in addition to the alternative resolution.

The alternative resolution will be documented as an informal resolution for the matter, if it takes place. In light of the alternative resolution, or the Respondent's decision not to attend, the Title IX Coordinator may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of recurrence of any behaviors that may not align with Policy, including continuing the administrative resolution process or initiating a complaint.

**c. Informal Resolution Outcome<sup>11</sup>**

Parties will be provided with a written informal resolution agreement by the Informal Resolution Facilitator. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the resolution process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement, etc.). The Title IX Coordinator maintains records of any resolution, including informal resolution, that is reached.

**24. Administrative Resolution Process Investigation Overview**

All investigations are adequate, thorough, reliable, impartial, prompt, and fair. They involve interviews with all relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.

**a. Investigator Appointment**

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<sup>11</sup> The Parties may not want discussions that take place within informal resolution to be admissible in a later resolution process, but essential facts must and do transfer from the informal process to subsequent resolution proceedings.

Once an investigation is initiated, the Title IX Coordinator appoints an Investigator(s) to conduct it. The Investigator may be a member of the resolution process pool, or any other properly trained Investigator, whether internal or external to the College's community.

**b. Notice of Investigation and Allegations (NOIA)**

Prior to an investigation, the Title IX Coordinator will provide the Parties with a detailed written NOIA. 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. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA typically includes:

- A summary of all allegations
- The identity of the involved Parties (if known)
- The precise sex discrimination being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies and/or Procedures implicated
- A description of, link to, or copy of the applicable Procedures
- 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
- A statement that the College presumes the Respondent is not responsible for the alleged sex discrimination unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- The Parties will be given an opportunity to inspect, review, and comment on all relevant evidence
- A statement that retaliation is prohibited
- Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share College work product obtained through the resolution process
- A statement that the Parties may have an Advisor of their choice who may accompany them through all steps of the resolution process
- A statement informing the Parties that the College prohibits knowingly making false statements, including knowingly submitting false information during the resolution process

- Detail on how a Party may request disability accommodations during the resolution process
- A link to the College’s VAWA Brochure
- An instruction to preserve any evidence that is directly related to the allegations
- A statement that Parties who are members of a union are entitled to union representation throughout the process

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(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, the notification will be presumptively delivered.

**c. Sex-Based Discrimination Investigation Process**

For sex-based discrimination investigations, the Investigator(s) typically take(s) the following steps, if not already completed and not necessarily in this order:

- i.** Determine the identity and contact information of the Complainant and Respondent, if known.
- ii.** Identify all policies or Procedures implicated by the alleged sex-based discrimination
- iii.** Assist the Title IX Coordinator, if needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy or Procedure violation.
- iv.** Work with the Title IX Coordinator, as necessary, to prepare the initial NOIA. The NOIA may be amended with any additional or dismissed allegations.
- v.** Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses.
- vi.** When participation of a Party is expected, provide that Party with written notification of the date, time, and location of the meeting/interview, as well as the expected participants and purpose.
- vii.** Interview the Complainant, Respondent, and available relevant witnesses and conduct follow-up interviews with each, as necessary.
- viii.** Allow each Party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another Party and/or witnesses.
- ix.** An opportunity for Parties to access the relevant and not otherwise impermissible evidence or an accurate description of the evidence.
- x.** To the extent credibility is in dispute and relevant to one or more of the allegations, the Investigator may ask questions to explore credibility.

- xi.** Provide each interviewed Party and witness an opportunity to review and verify the Investigator’s summary notes (or transcript or recording) of the relevant evidence/testimony from their respective interviews. After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.
- xii.** Where possible, complete the investigation promptly and without unreasonable deviation from the intended timeline.
- xiii.** Provide the Parties with regular status updates throughout the investigation.
- xiv.** Write an investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation, and Party and witness interviews, and provides all relevant evidence.
- xv.** Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.
- xvi.** Within ten (10) business days of the last Party or witness interview, the Investigator may share the investigation report and notice of outcome with the Title IX Coordinator and/or legal counsel for their review and feedback.
- xvii.** **Sex-Based Discrimination Notice of Outcome**  
The Investigator will provide the Title IX Coordinator with a written notice of outcome within ten (10) business days of the conclusion of the Investigation. The Title IX Coordinator will provide the Parties with the outcome notification, simultaneously. The outcome notification will specify the finding for each alleged Policy or Procedure violation, any applicable sanctions that the College is permitted to share pursuant to state or federal law, and a detailed rationale supporting the findings to the extent the College is permitted to share under federal or state law. Sanctions may be determined by the Title IX Coordinator, or designee. The notice of outcome will also detail the Parties’ equal rights to appeal, the grounds for appeal, the steps to take to request an appeal, and when the determination is considered final if neither Party appeals.

The notice of outcome 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-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

**d. Sex-Based Harassment Investigation Process**

In Sex-Based Harassment investigations, the Investigator(s) typically takes the steps outlined in Section 24(c) i-xiv, in addition to the following steps, if not already completed and not necessarily in this order:

- i. The investigator provides the Parties and Decision-Maker with the draft investigation report and evidence. The Parties will be given ten (10) business days to review and comment on the evidence

**ii. Decision-Maker Led Cross Examination**

- A. The College will facilitate questioning of the Parties and witnesses through the Decision-Maker. The Decision-Maker will ask each of the Parties to provide a proposed list of questions to ask the other Parties and any witnesses for the Decision-Maker to ask of the Party or witness. All questions must be asked through the Decision-Maker and are subject to a relevance determination before they are asked. The Decision-Maker will determine the method by which the Parties will submit their questions to the Decision-Maker for their review and, if approved, to be posed. Questions that the Parties wish to have posed can be questions for that Party themselves, another Party, or witnesses.
- B. The Decision-Maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance. The Decision-Maker will limit or disallow questions they deem not appropriate on the basis that they are duplicative, irrelevant, unduly repetitious, seek or pertain to impermissible evidence, or are abusive. The Decision-Maker has final say on all questions and determinations of relevance and appropriateness. The Decision-Maker may consult with the Title IX Coordinator or legal counsel on any questions of admissibility. For any question deemed not relevant or duplicative, the Decision-Maker will provide a rationale for not asking the question, either during the recorded interview, or in writing (typically as an Appendix to the report).
- C. The Decision-Maker will hold individual meetings with the Parties and witnesses to ask the questions posed by the Decision-Maker, as well as the questions proposed by the Parties. The Decision-Maker will allow witnesses who have relevant and not impermissible information to be interviewed to respond to specific questions from the Decision-Maker and the Parties, and the witnesses. All interviews will be recorded, transcribed, or summarized, and shared with the Parties.

- D. Upon reviewing the relevant evidence, the Decision-Maker may also choose to pose additional and/or follow up-questions: (1) To the extent credibility is in dispute and relevant to one or more of the allegations or (2) At their discretion, the Decision-Maker may also meet with any Party or witness to ask additional relevant questions that will aid the Decision-Maker in making their findings.
- E. Typically, within five (5) business days of the last of Party or witness interviews, the recordings, transcripts, or summaries of them will be provided to the Parties for their review. The Parties will then have five (5) business days to review these recordings, transcripts, or summaries and propose follow-up questions to be asked by the Decision-Maker.
- F. All Party questions must be posed during this phase of the investigation and cannot be posed later unless authorized by the Decision-Maker.
- G. If the Parties raise an issue of bias or conflict of interest of an Investigator or Decision-Maker, the Decision-Maker may elect to address those issues, consult with legal counsel, refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not an issue, the Decision-Maker should not permit irrelevant questions that probe for Investigator or Decision-Maker bias.

**iii. Sex-Based Harassment Final Investigative Report**

The Investigator will then incorporate any new, relevant evidence and information obtained through the Parties' review of the draft investigation report, the Decision-Maker led questioning, follow-up interviews, and any necessary information into a final investigation report.

The Investigator will provide the Decision-Maker and Parties with the final investigation report (FIR) and investigation file, including the evidence and information obtained through the Decision-Maker led interviews.

The Decision-Maker will review the FIR, all appendices, and the investigation file and render a decision on whether a violation occurred.

If the record is incomplete, the Decision-Maker may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the Parties or any witnesses, if needed.

**iv. Sex-Based Harassment Notice of Outcome**



The Decision-Maker will provide the Title IX Coordinator with a written notice of outcome within ten (10) business days of the conclusion of the Investigation. The Title IX Coordinator will provide the Parties with the outcome notification, simultaneously. The notice of outcome details all findings and final determinations, the rationale(s) explaining the decision(s), the relevant and not impermissible 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). The outcome notification will specify the finding for each alleged Policy violation, any applicable sanctions that the College is permitted to share pursuant to state or federal law, and a detailed rationale, written by the Decision-Maker, supporting the findings to the extent the College is permitted to share under federal or state law. Sanctions may be determined by the Title IX Coordinator, or designee. The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to take to request an appeal, and when the determination is considered final if neither Party appeals.

The written outcome notification 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-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

The Title IX Coordinator will notify the Parties of any extensions.

**e. Respondent Accepts Responsibility**

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during any resolution process. If the Respondent indicates an intent to accept responsibility for all alleged Policy violations, the ongoing process will be paused, and the Decision-Maker is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. The Title IX Coordinator will determine whether all Parties and the College are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of College Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate administrator(s), as necessary. If the Respondent rejects the finding/final determination/sanctions, or does not

admit to all conduct charged, the resolution process continues to its conclusion.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the resolution process will resume.

When a resolution is reached in relation to the Respondent accepting responsibility, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the sex discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

**f. Non-Responsive Party**

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

**g. Refusal to Submit to Questioning and Inferences**

Any Party or student witness may choose not to offer evidence and/or answer questions of another Party or witness, either because they do not attend their interview, or because they attend but refuse to participate in some or all questioning. Employee witnesses are required to participate in the interview if they are reasonably available. The Investigator/Decision-Maker can only rely on the available relevant and not impermissible evidence in making the ultimate determination of responsibility. The Decision-Maker may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed relevant and not impermissible, but the Decision-Maker must not draw an inference about whether sex discrimination occurred based solely on a Party's or witness' refusal to respond to such question.

An Advisor may not be called as a witness to be interviewed to what their advisee has told them during their role as an Advisor unless the Party being advised consents to that information being shared.

**h. Counter-Complaints**

The College permits the filing of counter-complaints. The Title IX Coordinator will use an initial evaluation, described above, to assess whether the allegations in the counter-complaint are made in good faith, and not for retaliatory purposes. When counter-complaints are not made in good

faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a violation of the Policy.

Counter-complaints determined to have been reported in good faith will be processed using a resolution process. At the Title IX Coordinator's discretion, investigation of such claims may take place concurrently or after resolution of the underlying initial complaint.

**i. Consolidation of Complaints**

The College may consolidate complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

**j. False Allegations and Evidence**

Deliberately false and/or malicious accusations under this Procedure are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a violation.

Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process can be subject to discipline under the College's appropriate policies.

**k. Witness Role and Participation in the Investigation**

Witnesses, including students and employees, are encouraged to participate in and make themselves reasonably available for interviews. Witnesses are not permitted to be accompanied by an Advisor without express permission of the Title IX Coordinator.

If any Party or witness does not appear at the scheduled interview, the investigative report will note the Investigator's efforts to hold the interview and that the Party/witness did not appear, as scheduled.

The Title IX Coordinator will notify all witnesses of their requested participation in an interview at least five (5) business days prior to the interview.

Employees (not including Complainant and Respondent) are required to cooperate with and participate in the College's investigation and resolution process, including during holiday and summer terms/breaks. Student witnesses and witnesses from outside the College community cannot be

required to participate but are encouraged to cooperate with College investigations and to share what they know about the allegation, including during holiday and summer terms/breaks.

Witnesses may participate and interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx, etc.), or, in limited circumstances, by telephone. The College will take appropriate steps to ensure the security/privacy of remote interviews. At the discretion of the Title IX Coordinator, in consultation with the Investigator and/or Decision-Maker, a witness may join by phone if no other reasonable alternative is available.

**l. Interview Recording**

It is standard practice for Investigators and Decision-Makers to create a record of all interviews pertaining to the resolution process (other than informal resolution meetings) which are stored in the case file with the Title IX Coordinator. The College records, transcribes, or summarizes all interviews for purposes of review in the event of an appeal. All involved individuals should be made aware of all formats in which the interview is being recorded (audio, video, etc.). The Parties may review copies or summaries of their own interviews, upon request. Parties and witnesses are prohibited from making their own audio or video recording of any kind during meetings and/or interviews.

The Investigator, Decision-Maker, the Parties, their Advisors, Appeal Decision-Maker, and other appropriate College officials will be permitted to review the recording, transcript, or summary upon request to the Title IX Coordinator. No unauthorized disclosure, including sharing, copying, or distribution of the recordings, transcripts, or summaries is permitted.

**m. Evidentiary Considerations**

The Investigator(s) and the Decision-Maker will only consider evidence that is deemed relevant and not otherwise impermissible.

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

Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless it:

- i. is evidence about the Complainant's prior sexual conduct offered to prove that someone other than the Respondent committed the alleged conduct; or

- ii. is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent offered to prove consent.

The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that sex discrimination occurred.

The Complainant's or Respondent's history of mental health counseling, treatment, or diagnosis is impermissible, unless the Party consents to its inclusion.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process. Within the limitations stated above, the investigation and determination can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

**n. Impact Statements**

The Parties may submit a written impact and/or mitigation statement to the Title IX Coordinator or designee at any time prior to a determination. If there are any findings of a Policy violation, the Decision-Maker or designee will request the impact statements from the Title IX Coordinator and review them prior to determining sanctions. They will also be exchanged between the Parties at that time.

**o. Withdrawal or Resignation Before Notice of Outcome**

If a Respondent withdraws or separates from the College, the resolution process may continue, or Title IX Coordinator may exercise their discretion to dismiss the complaint. If the complaint is dismissed, College will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged sex discrimination and retaliation.

Regardless of whether the complaint is dismissed or pursued to completion of the resolution process, the College will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sex discrimination and retaliation.

**p. Disciplinary Authority for Non-College Affiliated or Unknown Respondent(s)**

For disciplinary actions to be issued under this Procedure, the Respondent must be a College student or employee at the time of the alleged incident. If the Respondent is unknown or is not a member of the College community, the Title IX Coordinator will offer to assist to Complainant in identifying appropriate College and local resources and support options, and will implement appropriate supportive measures and/or remedial actions. The College can also assist in contacting local or College law enforcement if the individual would like to file a police report about criminal conduct.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences sex discrimination in an externship, study abroad program, or other environment external to the College where sex discrimination Procedures of that facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be addressed remedially by the Title IX Coordinator if brought to their attention.

**i. Students**

When a student withdraws or leaves while the resolution process is pending, the student may not return to the College in any capacity until the complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Title IX Coordinator has discretion to dismiss the complaint. The Registrar, Office of Admissions, and Equity Culture and Talent will be notified, accordingly.

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

**ii. Employees**

When an employee resigns while the resolution process is pending, the investigation continues, and the employee shall be subject to sanctions imposed by the written outcome upon return to the

College, in any capacity. Equity, Culture, and Talent, the Registrar, and Office of Admissions will be notified, accordingly, and a note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with the College until sanctions are completed. The records retained by the Title IX Coordinator will reflect that status.

**25. Appeal of Determination**

The Title IX Coordinator will designate a single Appeal Decision-Maker chosen from the resolution process pool, or another trained internal or external individual, to hear the appeal. No Appeal Decision-Maker will have been previously involved in the resolution process, including in any supportive measure or dismissal appeal that may have been heard earlier in the process.

**a. Appeal Grounds**

Appeals are limited to the following grounds:

- i. A procedural irregularity that would change the outcome;
- ii. New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility or dismissal was made; or
- iii. The Title IX Coordinator, Investigator(s), or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that would change the outcome

**b. Request for Appeal**

Any Party may submit a written request for appeal ("Request for Appeal") to the Title IX Coordinator within five (5) business days of the delivery of the notice of outcome.

**c. Appeal Determination Process**

The Title IX Coordinator will provide the Appeal Decision-Maker, Parties and their Advisors, and, when appropriate, the Investigator(s) and/or the Decision-Maker a copy of the request for appeal and submitted documentation. The non-appealing Party will be given five (5) business days to submit a response to the appeal request. The Appeal Decision-Maker will forward all responses, if any, to all Parties for review and comment.

Appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decision-Maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the finding only when an appeal ground is met. All decisions apply the preponderance of the evidence standard. An appeal is not an opportunity for the Appeal Decision-Maker to substitute their judgment for that of the original Decision-Maker merely because they disagree with the finding and/or sanction(s).

The Appeal Decision-Maker may consult with the Title IX Coordinator and/or legal counsel on questions of Procedure or rationale, for clarification, if needed. The Title IX Coordinator will maintain documentation of all such consultation.

**d. Appeal Outcome**

An Appeal Decision-Maker may grant or deny a request for appeal. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-Maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-Maker or the Title IX Coordinator (as in cases of bias), the Appeal Decision-Maker may order a new investigation and/or a new determination with new pool members serving in the Investigator and/or Decision-Maker roles. When an appeal is denied, the original determination is upheld.

The Title IX Coordinator or designee will send a written notice of appeal outcome letter to the Parties simultaneously, or without significant time delay between notifications. The 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 federal or state law, and the rationale supporting the essential findings to the extent the College is permitted to share under federal or state law.

Written notification 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-issued email account. Once mailed, emailed, and/or received in person, the appeal outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the final determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new



determination). When appeals result in no change to the finding or sanction, that decision is final.

**e. Sanction Status During Appeal**

Any sanctions imposed as a result of the request for appeal of the notice of outcome are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

**26. Sanctions**

The range of possible sanctions for violations of this Procedure is warning and/or probation through expulsion or termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.

**a. Factors for Consideration in Determining Sanctions**

Factors considered by the Title IX Coordinator or designee when determining sanctions and responsive actions may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the sex discrimination and retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sex discrimination and retaliation
- The need to remedy the effects of the sex discrimination and retaliation on the Complainant and the community
- The impact on the Parties
- Any other information deemed relevant by resolution process pool Member determining sanctions.

The sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal.

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

**b. Student Sanctions**

The following are the common sanctions that may be imposed upon students individually, in combination, or to student clubs/organizations:

- **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.
- **Required Counseling:** A mandate to meet with and engage in either College-sponsored or external counseling to better comprehend the misconduct and its effects.
- **Restrictions:** A student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, participation in certain activities or extracurriculars, study abroad, or from holding leadership in student organizations.
- **Probation:** An official sanction for violation of College Policy, providing for more severe disciplinary sanctions in the event that the student is found in violation of any College Policy, Procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- **Suspension:** Separation from the College, or one or more of its facilities or Extension Centers, for a definite period of time, after which the student is eligible to return. Eligibility to return may be contingent upon satisfaction of specific conditions noted at the time of suspension, on successfully applying for readmission, or upon a general condition that the student is eligible to return if the College determines it is appropriate to re-enroll/readmit the student. The student is typically required to vacate College property immediately upon notification of the action, though this deadline may be extended at the discretion of the Title IX or other appropriate official. During a College-wide suspension, the student is banned from College property, functions, events, and activities unless they receive prior written approval from an appropriate College official. This sanction may be enforced with a trespass action, as necessary. This sanction may be noted in the student's educational record, per College Policy and/or state law.
- **Expulsion:** Permanent separation from the institution. The student is banned from College property, and the student's presence at any institution-sponsored activity or event is prohibited. This action may be enforced with a trespass action, as necessary. This sanction may be noted in the student's educational record, per College Policy and/or state law.
- **Non-Participation in Commencement Activities:** The College may deny a student participation in commencement activities as a sanction if the student is found responsible for violating Policy.
- **Restitution:** The College reserves the right to require Respondent(s) to return item(s) to the rightful owner or provide the equivalent

monetary value for any loss or damage to property to the rightful owner.

- Loss of Privileges: Restricted from accessing specific College privileges for a specified period of time.
- 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**

The following are sanctions which may be imposed on employees:

- Verbal or written warning
- Performance improvement plan/Management process
- Enhanced supervision, observation, or review
- Required counseling
- Required training or education
- Probation
- Denial of pay increase/Pay grade
- Loss of oversight or supervisory responsibility
- Demotion
- Transfer
- Shift or schedule adjustments
- Reassignment
- Restitution
- Delay of (or referral for delay of) tenure track progress
- Assignment to a new supervisor
- Restriction of stipends, research, and/or professional development resources
- Suspension/Administrative leave without pay
- Termination
- 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.

**27. Clery Act Obligations**

**a. Timely Warnings**

The College must issue a timely warning for reported incidents that pose a serious or continuous threat of bodily harm or danger to members of the College community. The College will ensure that the Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

**b. Statistical Reporting Obligations**

Certain College officials (those deemed Campus Security Authorities) have a duty to report the following to comply with the Clery Act:

- i. All “primary crimes,” which include criminal homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson.
- ii. Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property.
- iii. Violence Against Women Act (VAWA-based crimes), which include sexual assault, domestic violence, dating violence, and stalking.<sup>12</sup>
- iv. Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations.

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on- or off-campus or in the surrounding area, but no addresses are given) must be shared with the Clery Officer at [clerycompliance@pgcc.edu](mailto:clerycompliance@pgcc.edu) for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include student affairs/student conduct staff, campus law enforcement/public safety/security, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities, other than confidential employees.

**28. Amnesty**

The College community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to give notice to College officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as underage alcohol consumption or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

To encourage reporting and participating in the process, the College offers student Parties and student witnesses amnesty from certain minor Policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident in accordance with the rest of this section. Granting amnesty is a discretionary decision made by the College, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

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<sup>12</sup> VAWA is the Violence Against Women Act, enacted in 1994 and codified in part at 42 U.S.C. sections 13701 through 14040.

**a. Student Conditions for Amnesty**

A student who reports sexual misconduct or sex discrimination as a Complainant or witness will not be subject to disciplinary sanctions for drug or alcohol use if:

- i. The College determines the violation occurred during or near the time of the alleged sexual misconduct or sex discrimination;
- ii. The student is determined to have made the report of sexual misconduct or sex discrimination or is participating in an investigation as a witness in good faith; and
- iii. The College determines that the violation was not an act that was reasonably likely to place the health or safety of another individual at risk.

**b. Amnesty and Seeking Medical Attention**

A student who receives medical attention as a result of dangerous behaviors, such as but not limited to alcohol and/or drug use, will be granted amnesty from the College's student conduct process but will be required to meet with the program coordinator for student conduct and community standards. The student will be given an opportunity to comply with drug or alcohol education-related recommendations.

A student who seeks medical attention for their fellow student(s) as a result of dangerous behaviors, such as but not limited to alcohol and/or drug use, will be granted amnesty from the College's student conduct process. This student may be required to meet with the program coordinator for student conduct and community standards and may be subject to drug or alcohol educational interventions to ensure future safety.

**29. Long Term Remedies/Other Actions**

Following the conclusion of the resolution process, and in addition to any sanctions implemented or informal resolution terms, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the College community that are intended to stop the sex discrimination and retaliation, remedy the effects, and prevent recurrence.

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

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts

- Climate surveys
- Policy modification and/or training
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term supportive measures may also be provided to the Parties even if no Policy violation is found. When no Policy violation is found, the Title IX Coordinator will address any remedies the College owes the Respondent to ensure no effective denial of educational access.

The College will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair the College's ability to provide these services.

**30. Parties' Failure to Comply with Sanctions or Remedial Actions**

Respondents are expected to comply with any assigned sanctions, responsive actions, corrective actions, and/or informal resolution terms within the timeframe specified by the final Decision-Maker, including the Appeal Decision-Maker or the informal resolution agreement.

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

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

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Title IX Coordinator's satisfaction.

**31. Disability Accommodation and Support During the Resolution Process**

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

During the resolution process, any Party or witness needing such accommodations or support should contact the Title IX Coordinator, who will work with disability support colleagues as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

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

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

**32. Revisions to this Procedure**

These Procedures succeed any previous Procedures addressing sex discrimination and retaliation for incidents occurring on or after August 1, 2024. The Title IX Coordinator will regularly review and update these Procedures. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If governing 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 governing laws or regulations or court holdings.

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

These Procedures are effective August 1, 2024.

**33. APPENDIX**

The following is included in the appendix to this Procedure:

- a. Appendix A: Statement of Parties' Rights
- b. Appendix B: Party Advisors
- c. Appendix C: Parties Preservation of Evidence
- d. Appendix D: External Resources
- e. Appendix E: Privacy, Privilege, and Confidentiality
- f. Appendix F: Violence Risk Assessment
- g. Appendix G: Record Maintenance and Access Process
- h. Appendix H: Training Requirements
- i. Appendix I: Pregnancy and Related Conditions

## **APPENDIX A: STATEMENT OF PARTIES' RIGHTS**

Under this Procedure, the Parties have the right to:

- An equitable investigation and resolution of all credible allegations of prohibited sex discrimination and retaliation, and other prohibited behaviors, when reported in good faith to College officials.
- Timely written notice of alleged violations that follow a resolution process, including the identity of the Parties involved (if known), the specific misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated Policies and Procedures, and possible sanctions.
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants) by updating the notice of investigation and allegation(s) (NOIA).
- Have all personally identifiable information protected from the College's release to the public without consent, except to the extent permitted by law.
- Be treated with respect by College officials.
- Have College Policy and these Procedures followed without material deviation.
- Voluntarily agree to resolve allegations under this Procedure through informal resolution without College pressure, if informal resolution is available and approved by the Title IX Coordinator.
- Not be discouraged by College officials from reporting sex discrimination and/or retaliation, and Other Prohibited Behavior to both on-campus and off-campus authorities.
- Be informed of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by the College in notifying such authorities, if the Party chooses. This also includes the right to not be pressured to report.
- Have allegations of violations of this Procedure responded to promptly and with sensitivity by College law enforcement and/or other College officials.
- Be informed of available supportive measures
- Be informed of available assistance in changing academic or employment situations after an alleged incident of sex discrimination and retaliation, if such changes are reasonably available. No formal report, or investigation, either College or criminal, needs to occur for this option to be available. Such actions may include, but are not limited to:
  - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
  - Rescheduling or adjusting an exam, paper, and/or assignment
  - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
  - Transferring class sections
  - Temporary withdrawal/leave of absence (may be retroactive)
  - Campus safety escorts
  - Alternative course completion options
- Have the College maintain supportive measures for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair the College's ability to provide the supportive measures.



- Identify and have the Investigator(s) and/or Decision-Maker question relevant available witnesses, including expert witnesses.
- Provide the Investigator(s)/Decision-Maker with a list of questions that, if deemed relevant and permissible by the Investigator(s)/Decision-Maker, may be asked of any Party or witness.
- Have Complainant's inadmissible sexual interests/prior sexual history or any Party's irrelevant character evidence excluded by the Decision-Maker.
- Access the relevant evidence obtained and respond to that evidence.
- A fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- Receive a copy of all relevant and permissible evidence obtained during the investigation, subject to privacy limitations imposed by federal and state law and be given an opportunity to review and comment.
- In sex-based harassment matters, the right to receive a copy of the final investigation report, including all factual, Policy, and/or credibility analyses performed.
- Regular status updates on the investigation and/or resolution process.
- Have reports of alleged Procedure violations addressed by resolution process pool members who have received relevant annual training as required by law.
- Preservation of confidentiality/privacy, to the extent possible and permitted by law.
- Meetings and interviews that are closed to the public.
- Petition that any College representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- Be able to select an Advisor of their choice to accompany and assist the Party in all meetings and/or interviews associated with the resolution process.
- Have the College apply the preponderance of the evidence standard of proof to make a finding and final determination after an objective evaluation of all relevant and permissible evidence.
- Have an impact statement considered by the Decision-Maker or designee following a determination of responsibility for any allegation, but prior to sanctioning.
- Be promptly informed of the resolution process finding(s) and sanction(s) (if any) and be given a detailed rationale of the decision in a written outcome letter delivered to the Parties simultaneously.
- Be informed in writing of when a College decision is considered final and any changes to the final determination or sanction(s) that occur post outcome letter delivery.
- Be informed of the opportunity to appeal the resolution process finding(s) and the Procedures for doing so in accordance with the College's grounds for appeal.
- A fundamentally fair resolution as defined in these Procedures.

## APPENDIX B: PARTY ADVISORS

### 1. Who can Serve as an Advisor

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a Party chooses) present with them for all meetings and interviews within the resolution process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>13</sup>

The Title IX Coordinator will offer to assign a trained Advisor to any Party if the Party chooses. If the Parties choose an Advisor from the pool available from the College, the College will have trained the Advisor and familiarized them with the College's resolution process. Parties have the right to choose not to have an Advisor in the resolution process.

The College cannot guarantee equal Advisory rights, meaning that if one Party selects an Advisor who is an attorney, but the other Party does not, or cannot afford an attorney, the College is not obligated to provide an attorney to advise that Party.

A Party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Title IX Coordinator with the identity of their Advisor at least two (2) business days before the date of any meeting or interview with the Title IX Coordinator, Investigator, or Decision-Maker and timely notification if they change Advisors. If a Party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

If a Party requests that all communication be made through their Advisor instead of to the Party, the College will agree to copy both the Party and their Advisor on all communications.

Advisors appointed by the College cannot be Confidential Employees, and although they will not be asked to disclose details of their interactions with their advisees to College officials or Decision-Maker absent an emergency, they are still reminded of their mandated reporter responsibilities.

As a public entity, the College fully respects and accords the Weingarten rights of employees, meaning that for Parties who are entitled to union representation, the College will allow the unionized employee to have their union representative (if requested by the Party) as well as an Advisor of their choice present for all resolution-related meetings and

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<sup>13</sup> "Available" means the Party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have College conflicting roles, such as being an Administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions. Additionally, choosing an Advisor who is also a witness in the process creates potential for bias and conflicts of interest. A Party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-Maker.

interviews. To uphold the principles of equity, the other Party (regardless of union membership) will also be permitted to have two Advisors.

2. **Advisor's Role in the Resolution Process**

Advisors should help the Parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors, and union representatives where applicable, may not provide testimony or speak on behalf of their advisee unless given specific permission to do so by the Title IX Coordinator.

The Parties are expected to ask and respond to questions on their own behalf throughout the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

3. **Records Shared with Advisors**

Advisors are entitled to the same opportunity as their advisee to access relevant evidence, and/or the same written investigation report(s) that accurately summarizes this evidence.

Advisors are expected to maintain the confidentiality of the records the College shares with them. Appendix E of this Procedure addresses Privacy, Privilege, and Confidentiality. Advisors may not disclose any College work product or evidence the College obtained solely through the resolution process for any purpose not explicitly authorized by the College.

The College may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the College's confidentiality expectations.

The College also provides a consent form that authorizes the College to share such information directly with their Advisor. The Parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before the College is able to share records with an Advisor.

4. **Advisor Expectations**

The College generally expects an Advisor to adjust their schedule to allow them to attend College meetings/interviews when planned, but the College may change scheduled meetings/interviews to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The College may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview by telephone, video conferencing, or other similar technologies.

All Advisors are subject to the same College policies and Procedures, whether they are attorneys or not, and whether they are selected by a Party or appointed by the College. Advisors are expected to advise their advisees without disrupting proceedings.

**5. Advisor Procedure Violations**

Any Advisor who oversteps their role as defined by this Procedure, who shares information or evidence in a manner inconsistent with this Procedure, or who refuses to comply with the College's established rules of decorum, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview may be ended, or other appropriate measures implemented, including the College requiring the Party to use a different Advisor or providing a different College-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

**6. Student's Rights to Paid Counsel**

Under Maryland law, the Maryland Higher Education Commission (MHEC) will pay reasonable costs and attorney's fees, subject to state funding and eligibility requirements, for the following:

- A current or former student who makes a complaint on which a formal Title IX investigation is initiated and who was enrolled as a student at the time of the incident that is the basis of the complaint, unless the student knowingly and voluntarily chooses not to have counsel; and
- A current or former student who responds to a complaint on which a formal Title IX investigation is initiated and who was enrolled as a student at the time of the incident that is the basis of the complaint, unless the student knowingly and voluntarily chooses not to have counsel.

In consultation with State and local bar associations and legal services providers with expertise about sexual misconduct, MHEC provides a list of attorneys and legal services programs willing to represent students on a pro bono (no cost to the student) basis or at fees equivalent to those paid to attorneys under civil legal services programs administered by the Maryland Legal Services Corporation.

A student may select an attorney from the list developed by MHEC to assist them throughout any disciplinary proceedings. Available attorneys may be located using this link: <https://mhec.maryland.gov/Pages/Title-IX-Campus-Sexual-Assault-Proceedings---Attorney-List.aspx>.

If a student selects and retains an attorney who is not on the list developed by MHEC, MHEC's website indicates that an attorney not on its list may seek a fee reimbursement for

up to 20 hours at \$100 per hour. MHEC is not required to pay a student's attorney fees for representation in a criminal or civil matter. The College may not discourage a student from retaining an attorney. The student's right to counsel will not prohibit the College from imposing interim safety measures.

## **APPENDIX C: PARTIES' PRESERVATION OF EVIDENCE**

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders, and it is particularly time sensitive. The College will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

### **Sexual Assault**

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better). Persons who experience sexual assault can access a Sexual Assault Forensic Evidence (SAFE) Exam through the University of Maryland, Capital Region Health Center's Domestic Violence and Sexual Assault Center. More information can be found by contacting their Helpline at 240-677-2337 or find a local SAFE Exam here: [chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://mcase.org/assets/files/Maryland\\_SAFE\\_Programs\\_List\\_2024.pdf](chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://mcase.org/assets/files/Maryland_SAFE_Programs_List_2024.pdf).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or a secure evidence container (if provided one by law enforcement).
- Seeking medical treatment can be essential, even if it is not for the purposes of collecting forensic evidence.

### **Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment**

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number. Make a secondary recording of any voice messages and/or save the audio files to a cloud server. Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media correspondence, including notifications related to account access alerts.
- Take timestamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.
- Save copies of any messages, including those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

## **APPENDIX D: EXTERNAL RESOURCES**

Parties may speak with individuals unaffiliated with the College without concern that this Procedure will require them to disclose information to the institution without permission.

Below is a non-exclusive list of community resources:

- **National Sexual Assault Hotline** ([www.RAINN.org](http://www.RAINN.org)/ 800-656-4675) – Available 24/7, Routes to your local RAINN sexual assault affiliate. Provides confidential short-term support from a trained staff member, referrals for long term supports in your area, information about laws in your community, support finding a local health facility that is trained to care for survivors of sexual assault.
- **House of Ruth Maryland** (<https://hruth.org/get-help>/410-889-RUTH) – Provides a 24/7 confidential lifeline to victims in need. Counselors are trained in crisis intervention, safety planning, counseling and legal referrals, and proactive advocacy to victims, as well as their families, friends, and the community in general.
- **The National Domestic Violence Hotline** (<https://www.thehotline.org>/1-800-799-7233) – Provides crisis intervention, information, and referrals to victims of domestic violence, perpetrators, friends, and families through phone or chat.
- **Joint Base Andrews Family Advocacy Program** (240-857-9680), 1191 Menoher Drive, Joint Base Andrews, MD 20762. Hours of Operation: Monday-Friday 7:30AM-4:30PM. Services include counseling and preventative services for active military families in crisis due to domestic violence and child abuse. Population Served: Active military and dependent spouses.

## **APPENDIX E: PRIVACY, PRIVILEGE, AND CONFIDENTIALITY**

The College makes every effort to preserve the Parties' privacy. The College will not share the identity of:

- Any individual who has made a complaint for sex discrimination and/or retaliation;
- Any Complainant
- Any individual who has been reported to be the perpetrator of sex discrimination and/or retaliation;
- Any Respondent; or
- Any witness

except as permitted by, or to fulfill the purposes, of applicable laws and regulations, such as the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required under this Procedure.

For the purpose of this Procedure, the terms privacy, confidentiality, and privilege have distinct meanings.

- **Privacy:** Means that information related to a complaint will be shared with a limited number of College employees who “need to know” in order to assist in providing supportive measures or evaluating, investigating, or resolving the matter. All employees who are involved in the College’s response to notice under this Procedure receive specific training and guidance about sharing and safeguarding private information in accordance with federal and state law.
- **Confidentiality:** Exists in the context of laws or professional ethics (including Title IX) that protect certain relationships, including clinical care, mental health providers, and counselors. Confidentiality also applies to those designated by the College as Confidential Employees for purposes of reports under this Procedure, regardless of legal or ethical protections. When a Complainant shares information with a Confidential Employee, the Confidential Employee does not need to disclose that information to the Title IX Coordinator. The Confidential Employee will, however, provide the Complainant with the Title IX Coordinator’s contact information, assist the Complainant in reporting, if desired, and provide them with information on how the Title IX Office can assist them. With respect to Confidential Employees, information may be disclosed when: (1) the reporting person gives written consent for its disclosure; (2) there is a concern that the person will likely cause serious physical harm to self or others; or (3) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or persons with disabilities. Other information may be shared as required by law.
- **Privilege:** Exists in the context of laws that protect certain relationships, including attorneys, spouses, and clergy. Privilege is maintained by the holder of the privilege unless a court orders release or the holder of the privilege (e.g., a client, spouse, parishioner) waives the protections of the privilege. The College treats employees who have the ability to have privileged communications as Confidential Employees.



FERPA gives parents and legal guardians certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. The College may contact the parents/legal guardians of students under the age of 18 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 prior to doing so. The College reserves the right to determine which College officials have a legitimate educational interest in being informed about student-related incidents that fall under this Procedure, pursuant to FERPA. Only a small group of officials who need to know will typically be told about the complaint. Information will be shared as necessary with the resolution process pool Members, witnesses, the Parties, and the Parties' Advisors. The circle of people with this knowledge will be kept as tight as possible to preserve the Parties' rights and privacy.

## APPENDIX F: VIOLENCE RISK ASSESSMENT

Threat assessment is the process of assessing the actionability of violence by a person against another person or group following the issuance of a direct or conditional threat. A **Violence Risk Assessment (VRA)** is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

Implementing a VRA requires specific training. It is typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct professionals, and/or other Behavioral Intervention Team (BIT) members.

A VRA occurs in collaboration with the BIT and must be understood as an ongoing process, rather than as a single evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations. It is supported by research from law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use(s) an evidence-based process consisting of:

1. An appraisal of risk factors that escalate the potential for violence.
2. A determination of stabilizing influences, or protective factors, that reduce the risk of violence.
3. A contextual analysis of violence risk by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of the threat; fixation and focus on target; grievance collection; and action and time imperative for violence.
4. The application of intervention and management approaches to reduce the risk of violence.

To assess a person's level of violence risk, the Title IX Coordinator with the BIT Chair will initiate the VRA process through the BIT. The BIT will assign a trained person(s) to perform the assessment, according to the specific nature of the complaint.

The assessor(s) will follow the process for conducting a VRA as outlined and will rely on a consistent, research-based, reliable system that allows for the evaluation of the risk levels.

The VRA is conducted independently from the resolution process, informed by it, but free from outcome pressure. The person(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The BIT member(s) conducts a VRA process and makes a recommendation to the Title IX Coordinator as to whether there is a substantial, compelling, and/or immediate risk to the health and/or safety of a person or the community.

In some circumstances, the Title IX Coordinator may determine that a VRA should be conducted by the BIT as part of the initial evaluation of a complaint under this Procedure. A VRA can aid in critical and/or required determinations, including:

- A. Whether to remove the Respondent on an emergency basis because of an immediate threat to a person or the community's health/safety (Emergency Removal)
- B. Whether the Title IX Coordinator should pursue/sign a complaint absent a willing/able Complainant
- C. Whether the scope of an investigation should include an incident, and/or pattern of misconduct, and/or climate of discrimination or harassment
- D. To help identify potential predatory conduct
- E. To help assess/identify grooming behaviors
- F. Whether it is reasonable to try to resolve a complaint through informal resolution, and if so, what approach may be most successful
- G. Whether to permit the Respondent to voluntarily withdraw
- H. Assessment of appropriate sanctions/remedies (to be applied post-determination)
- I. Whether a Clery Act timely warning is needed

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Colleges may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

## **APPENDIX G: RECORD MAINTENANCE AND ACCESS PROCESS**

### **1. Recordkeeping**

For a period of at least seven (7) years following the conclusion of the resolution process, the College will maintain records related to this Procedure.

### **2. Types of Records Covered Under this Procedure**

Records pertaining to the Title IX Procedure include, but are not limited to:

- The complaint
- Notice of investigation and allegations
- Documentation of notice to the institution, including incident reports
- Anonymous reports later linked to a specific incident involving known Parties
- Any documentation supporting the initial evaluation
- Investigation-related evidence (e.g., physical and documentary evidence collected and interview transcripts)
- Dismissal-related documentation and appeals
- Documentation related to emergency removals, leaves, and interim actions and challenges
- Documentation related to the resolution process
- The final investigation report and file
- Remedy-related documentation
- Supportive measures-related documentation
- Appeal-related documentation
- Informal resolution records
- Outcome notices
- Any other records typically maintained by the College as part of the complaint file

### **3. Drafts and Working Files**

Preliminary drafts and “working files” are not considered records that the College must maintain, and these are typically destroyed during the course of an investigation or at the conclusion of the resolution process. They are preliminary versions of records and other documents that do not state a final position on the subject matter reviewed or are not considered to be in final form by their author and/or the Title IX Coordinator. An example of a “working file” would be the Investigator’s notes made during an interview on topics that they want to revisit in subsequent interviews. Sole possession records maintained as such in accordance with FERPA are also included in this category. All drafts of investigation reports shared with the Parties are maintained.

### **4. Attorney-Work Product**

Communications from the Title IX office or its designees with the College’s legal counsel may be work product protected by attorney-client privilege. These privileged communications are not considered records to be maintained by the Title IX office or accessible under this Procedure unless the Title IX Coordinator, in consultation with legal counsel as necessary, determines that these communications should be included as accessible records.

## **5. Record Storage**

Records may be created and maintained in different media formats; this Procedure applies to all records, irrespective of format. All records created pursuant to this Procedure, as defined above, must be stored in digital format and maintained by the Title IX office. The complete file must be transferred to the Title IX office, typically within fourteen (14) business days of the complaint resolution (including any appeal), if the file is not already maintained within the Title IX office. Security protocols must be in place to preserve the integrity and privacy of any parts of any record that are maintained in the Title IX office during the pendency of an investigation.

The Title IX office will store all records created pursuant to this Procedure, regardless of the identities of the Parties. Any extra (non-essential) copies of the records (both digital and paper) must be destroyed.

A copy of records showing compliance with any applicable Clery Act/Violence Against Women Act (VAWA) requirements will be maintained along with the complaint file by the Title IX office.

## **6. Title IX Training Materials**

The College will also maintain copies of the slides or other materials from all Title IX training for the resolution process pool members, the Title IX Team, and employees. Title IX training materials are available for review upon request to the Title IX Coordinator.

## **7. Record Retention**

All records created and maintained pursuant to the Procedure will be retained by the Title IX office for a minimum of seven (7) years in database, digital, and/or paper form. Except for records pertaining to Title IX and the Clery Act/VAWA, the Title IX Coordinator may authorize destruction or expungement acting under their own discretion, or in accordance with a duly executed and binding claim settlement and/or by court or government order.

## **8. Record Access**

Access to records created pursuant to this Procedure or housed in the Title IX office is strictly limited to the Title IX Coordinator and any person they authorize in writing, at their discretion, or via permission levels within the database. Those who are granted broad access to the Title IX office records are expected to access only those pertinent to their scope, work, or specific assignment. Anyone who accesses such records without proper authorization may be subject to an investigation and possible discipline/sanction. The discipline/sanction for unauthorized access of records covered by this Procedure will be at the discretion of the appropriate disciplinary authority, consistent with other relevant College policies and Procedures.

Student Parties may request access to their complaint file. The College will provide access or a copy within 45 days of the request. Appropriate redactions of personally identifiable information may be made before inspection, or any copy is shared.

During the investigation, materials may be shared with the Parties using secure file transmission software.

The College will maintain an access log of each case file, showing when and by whom it was accessed and for what purpose.

**9. Record Security**

The Title IX Coordinator must maintain appropriate security practices for all records, including password protection, lock and key, and other barriers to access as appropriate. Record security must include protection from floods, fire, and other potential emergencies to the extent possible. Clothing, forensic, and other physical evidence will be securely stored in the Title IX office or another appropriate secure location. All physical evidence will be maintained in a facility that is reasonably protected from flood and fire. A catalog of all physical evidence will be retained with the complaint file.

## **APPENDIX H: TRAINING REQUIREMENTS**

### **1. Employee Training**

All employees must be trained on:

- The College's obligation to address sex discrimination in its education program or activity, including pregnancy and pregnancy-related complications;
- The scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment; and
- Employee's notification obligations once provided notice of Title IX allegations.

### **2. Resolution Process Pool Member Training**

Resolution process pool members receive annual training related to their respective roles.

This training may include, but is not limited to:

- The scope of the Prince George's Community College Policy
- Prince George's Community College's Title IX: Sex Discrimination Procedure
- How to conduct investigations that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias and confirmation bias
- Treating Parties equitably
- Disparate treatment
- Disparate impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- Trauma-informed practices pertaining to investigations and resolution processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all prohibited conduct
- How to conduct an investigation, including administrative resolution and informal resolution processes, and appeals
- How to serve impartially by avoiding prejudice 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
- Issues of relevance of questions and evidence
- Issues of relevance and creating an investigation report that fairly summarizes relevant and not impermissible evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recordkeeping

### **3. Additional Training Elements Specific to Title IX**

All Investigators, Decision-Makers, and other persons who are responsible for implementing the College's Title IX policies and Procedures will receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX or this part, and annually thereafter. Materials will not rely on sex stereotypes. Training topics include, but are not limited to:

- How to conduct a sex discrimination resolution process consistent with the Title IX Procedures, including issues of disparate treatment, disparate impact, sex-based harassment, quid pro quo, hostile environment harassment, and retaliation
- The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under the Title IX Regulations
- Training for informal resolution facilitators on the rules and practices associated with the College's informal resolution process
- The role of the Title IX Coordinator
- Supportive Measures
- Clery Act/VAWA requirements applicable to Title IX
- The College's obligations under Title IX
- How to apply definitions used by the College with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with Policy
- Reasonable modifications and specific actions to prevent sex discrimination and ensure equal access for pregnancy or related conditions
- Any other training deemed necessary to comply with Title IX



## **APPENDIX I: TITLE IX PREGNANCY AND RELATED CONDITIONS PROCEDURE**

### **1. Non-Discrimination Statement**

Prince George's Community College ("The College") does not discriminate in its education program or activity against any applicant for admission, student, applicant for employment, or employee on the basis of current, potential, or past pregnancy or related conditions as mandated by Title IX of the Education Amendments of 1972 ("Title IX"). The College prohibits members of the College community from adopting or implementing any policy, practice, or procedure which treats an applicant for admission, student, applicant for employment, or employee differently on the basis of current, potential, or past parental, family, or marital status.<sup>14</sup> This procedure and its pregnancy-related protections apply to all pregnant persons, regardless of gender identity or expression.

### **2. Scope**

This procedure applies to employees, students, and applicants for either. Students include those enrolled or applying to the College, including dual enrollment, continuing education, part-time, and full-time students, and apply to all aspects of the College's programs, including, but not limited to, admissions, educational programs, activities, and extracurricular activities.

### **3. Definitions**

- a. **Familial Status:** The configuration of one's family or one's role in a family.
- b. **Marital Status:** The state of being married or unmarried.
- c. **Medical Necessity:** A determination made by a health care provider (of the student's choosing) that a certain course of action is in the patient's best health interests.
- d. **New Parents:** Those parenting children through adoption, natural birth, or fostering, during the first 12 months of the child's natural born life and/ or establishment of the legal relationship.
- e. **Parental Status:** The status of a person who, with respect to another person who is under the age of 18,<sup>15</sup> is a biological, adoptive, foster, or stepparent; a legal custodian or guardian; in loco parentis with respect to such a person; or actively seeking legal custody, guardianship, visitation, or adoption of such a person.
- f. **Parenting:** refers to the postpartum period following childbirth and is interpreted to include the first year following pregnancy.

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<sup>14</sup> "Title IX does not prohibit discrimination based on marital status *per se*, as discrimination based on marital status does not necessarily require consideration of a person's sex. Title IX does, however, prohibit a recipient from applying rules concerning marital status that treat individuals differently on the basis of sex (e.g., treating married women more or less favorably than married men, treating an unmarried mother worse than a married mother based on sex stereotypes, treating a man who is married to a man worse than a woman who is married to a man)." Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 89 F.R. 33474, April 29, 2024, codified at 34 C.F.R. 106.

<sup>15</sup> Or a person who is 18 or older but who is incapable of self-care because of a mental or physical disability.

- g. **Pregnancy and Related Conditions:** The full spectrum of processes and events connected with pregnancy, including pregnancy, childbirth, termination of pregnancy, or lactation; related medical conditions; and recovery therefrom.<sup>16</sup>
- h. **Pregnancy Discrimination:** Includes treating an individual affected by pregnancy or a related condition less favorably than similar individuals not so affected and includes a failure to provide legally mandated leave or reasonable modifications.
- i. **Pregnant Student:** Refers to the student who is pregnant or recently gave birth. This procedure and its pregnancy-related protections apply to all pregnant persons, regardless of gender identity or expression.
- j. **Reasonable Modification:** Changes in the academic environment or typical operations that enable pregnant students or students with related conditions to continue to pursue their studies and have equal access to the education program of the college. Reasonable modifications do not include any modifications that would constitute a substantial change or fundamental alteration to an essential element of a course or program or pose an undue burden on the College.

#### **4. Information Sharing Requirements**

Any College employee who becomes aware of a student’s pregnancy or related condition is required to provide the student with the Title IX Coordinator’s contact information and communicate that the Coordinator can help take specific actions to prevent sex discrimination and ensure equal access to the College’s education program and activity. If the employee has a reasonable belief that the Title IX Coordinator is already aware of the pregnancy or related condition, the employee is not required to provide the student with the Title IX Coordinator’s contact information. Employees, including faculty, shall not request or accept medical information.

#### **5. Notice of Pregnancy Status and Related Conditions**

Students or employees, with the student’s consent, may provide notice to the Title IX Coordinator of a student’s reported pregnancy or related condition at **TitleIX@pgcc.edu**, 301-546-7011 or by submitting an online inquiry with the Title IX Reporting Form ([https://cm.maxient.com/reportingform.php?PrinceGeorgesCC&layout\\_id=2](https://cm.maxient.com/reportingform.php?PrinceGeorgesCC&layout_id=2)) located on the College’s website under the “Complainant Form and Incident Report” link, option 6.

Upon notification of a student’s pregnancy or related condition, the Title IX Coordinator will contact the student and inform the student of the College’s obligations to:

- a. Prohibit sex discrimination.
- b. Provide reasonable modifications, if requested.
- c. Allow access, on a voluntary basis, to any separate and comparable portion of the institution’s education program or activity.
- d. Allow a voluntary leave of absence.

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<sup>16</sup> “[T]he Department interprets ‘termination of pregnancy’ to mean the end of pregnancy in any manner, including, miscarriage, stillbirth, or abortion.” Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 89 F.R. 33474, April 29, 2024, codified at 34 C.F.R. 106.

- e. Ensure lactation space availability.
- f. Maintain a resolution process for alleged sex discrimination.
- g. Treat pregnancy as comparable to other temporary medical conditions.

The Title IX Coordinator will also notify the student of the process to file a complaint for alleged sex discrimination and retaliation, as applicable.

#### **6. Reasonable Modifications for Students**

Students who are pregnant or are experiencing related conditions are entitled to reasonable modifications to prevent sex discrimination and ensure equal access to the College's education program and activity. Any student seeking reasonable modifications must discuss appropriate and available reasonable modifications based on their individual needs with the Title IX Coordinator. Students are encouraged to request reasonable modifications as promptly as possible, although retroactive modifications may be available in some circumstances. Reasonable modifications are voluntary, and a student can accept or decline the offered reasonable modifications. Reasonable modifications will be granted so long as the reasonable modification reasonably address the pregnancy or related condition.

Reasonable modifications may include:

- a. Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom
- b. Intermittent absences to attend medical appointments
- c. Access to online or homebound education, when available
- d. Changes in schedule or course sequence
- e. Time extensions for coursework and rescheduling of tests and examinations
- f. Allowing a student to sit or stand, or carry or keep water nearby
- g. Counseling
- h. Changes in physical space or supplies (for example, access to a larger desk or a footrest)
- i. Elevator access
- j. A larger uniform or other required clothing or equipment
- k. Granting medically necessary leave with a doctor's note
- l. Allowing frequent trips to the restroom, when necessary
- m. Implementing incomplete grades for classes that will be resumed at a future date
- n. Other changes to policies, practices, or procedures determined by the Title IX Coordinator

In situations such as clinical rotations, performances, labs, and group work, the College will work with the student to devise an alternative path to completion, if possible. Students are encouraged to work with their faculty members, department chairs, and the College's support systems to devise a plan for how to best address the conditions as pregnancy progresses, anticipate the need for leaves, minimize the academic impact of their absence, and get back on track as efficiently and comfortably as possible. The Title IX Coordinator will assist with plan development and implementation as needed.

Supporting documentation for reasonable modifications will only be required when it is necessary and reasonable under the circumstances to determine which reasonable modifications to offer to determine other specific actions to take to ensure equal access.

Information about pregnant students' requests for modifications will be shared with faculty and staff only to the extent necessary to provide the reasonable modification.

Students experiencing pregnancy-related conditions that manifest as a temporary disability under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act are eligible for reasonable accommodations just like any other student with a temporary disability. The Title IX Coordinator will consult with Disability Support Services to ensure the student receives reasonable accommodations for their disability as required by law.

## **7. Certification to Participate**

All students should be informed of health and safety risks related to participation in academic and co-curricular activities, regardless of pregnancy status. A student may not be required to provide health care provider or other certification that the student is physically able to participate in the program or activity, unless:

- a. The certified level of physical ability or health is necessary for participation;
- b. The institution requires such certification of all students participating; and
- c. The information obtained is not used as a basis for pregnancy-related discrimination.

## **8. Lactation Space Access**

The College provides students and employees with access to lactation spaces that are private, functional, clean, secure, and safe. All spaces are equipped with seating, a table, and electrical outlets. Nursing parents will need to provide their own pump. All lactation space users are expected to clean up after each use.

Lactation spaces are located in the following locations:

- a. Largo Campus - Center for Health Studies, 2<sup>nd</sup> floor, Mamava Pod\*
- b. Largo Campus - Lanham Hall, 1<sup>st</sup> floor, Mamava Pod\*
- c. University Town Center - Student Lounge, Lower Level, Mamava Pod\*
- d. Laurel College Center, Room 514

\*Mamava Pods require the download of the Mamava mobile application prior to use.

## **9. Leave of Absence**

### **a. Students**

Students are permitted to take a voluntary leave of absence for a reasonable time as deemed medically necessary by their healthcare provider because of pregnancy and/or the birth, adoption, or placement of a child. The leave term may be extended in the case of extenuating circumstances or medical necessity.

To the extent possible, the College will take reasonable steps to ensure that students who take a leave of absence or medical leave return to the same position of academic progress that they were in when they took leave, including access to the same or an equivalent course catalog that was in place when the leave began, as College operations allow and are available.

Continuation of students' scholarships, fellowships, or similar College-sponsored funding during the leave term will depend on student registration status and the policies of the funding program regarding registration status. Students will not be negatively impacted by or forfeit their future eligibility for their scholarship, fellowship, or similar College-supported funding by exercising their rights under this procedure.

The College's Financial Aid Office can and will advocate for students with respect to financial aid agencies and external scholarship providers in the event that a leave of absence places eligibility into question. The Financial Aid Office is located in Bladen Hall, Room 121 of the Largo Campus, and can be contacted at 301-546-7422 or [finaid@pgcc.edu](mailto:finaid@pgcc.edu).

**b. Employees**

Information on employment leave can be found in the College's Request for Leave Procedure (141007AP) or by contacting Equity, Culture, and Talent's Total Rewards located at Annex B, 301 Largo Road, MD, 20774-2199. Phone: (301) 546-0680 (weekdays, 8:30a.m. – 4:30p.m.), or Email: [ECT-Benefits-Comp@pgcc.edu](mailto:ECT-Benefits-Comp@pgcc.edu).

If an employee, including a student-employee, is not eligible for leave because they either (1) do not have enough leave time available, or (2) have not been employed long enough to qualify for leave, they are eligible to qualify for pregnancy or related condition leave of absence under Title IX. Pregnancy and related conditions will be regarded as a justification for a leave of absence without pay for a reasonable period of time. At the conclusion of the leave, the employee shall be reinstated to the status held when the leave began or to a comparable position, without a decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.