

# Sexual Harassment/Interpersonal Violence Policy Statement - Hastings

This policy covers all Bryan College of Health Sciences students, regardless of sexual orientation, gender identity or expression, including part-time and full-time students, in all degree seeking and certificate programs and students at-large. This policy also applies to the College's administrators, faculty, staff, visitors, and applicants for employment or admission. The College prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking as those terms are defined for purposes of the Clery Act (see above).

The disciplinary process for sexual misconduct will be available to a student with a complaint and enforced against a person found to have engaged in the behavior. Students engaged in Prohibited Conduct may also be subject to criminal and civil procedures at state and/or federal levels. The College is committed to fair and prompt procedures to investigate and adjudicate reports of sexual misconduct and to the education of the College community about the importance of responding to all forms of sexual misconduct. Special emphasis is placed on the rights, needs, and privacy of the student with a complaint, as well as the rights of the accused while adhering to all federal, state, and local requirements for intervention and crime reporting related to sexual misconduct.

The College strives to create an environment which encourages students to come forward if they feel they have been the victim of sexual misconduct. While the College strives to protect the confidentiality of both complainant and respondent, complete confidentiality cannot be guaranteed. The College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so may be limited based on the nature of the request. The College must balance the needs of the individual student with its obligation to protect the safety and well-being of the community at large. Therefore, depending on the seriousness of the alleged incident and individual circumstances, further action may be necessary including a campus security alert, timely warning and/or notification of local law enforcement. Personally identifying information about complainants will not, however, be released in campus security alerts or timely warnings.

Reasonable steps will be taken to protect the complainant, the respondent and other participants in the reporting, investigation, and resolution process from retaliation. Any individual who engages in retaliation will be subject to prompt and appropriate disciplinary action under this policy.

Inquiries about sexual harassment and/or interpersonal violence need not begin with a formal complaint, nor do they necessarily result in a complaint. Inquiries can be made without disclosing specific details such as names and places. Inquiries are appropriate whether sexual harassment or interpersonal violence has just begun or the complainant has already made efforts to resolve the problem. Any activity perceived as sexual harassment or interpersonal violence should be reported to the College's Title IX Compliance Coordinator: Dr. Alethea Stovall, Dean of Students, who is identified and authorized as the Title IX Coordinator and is responsible for coordinating the College's efforts to comply with Title IX, or a member of the College's administration, for investigation and action.

A complaint of alleged sexual harassment or interpersonal violence may not always be able to be substantiated, but the lack of corroborating evidence should not discourage an individual from seeking relief through procedures outlined in this policy. However, it is a violation of the policy to falsely and in bad faith accuse faculty, staff or students of sexual harassment or interpersonal violence.

The College encourages individuals who have experienced Prohibited Conduct and/or complainants to talk to somebody about what happened so they can get the support they need, and so the College can respond appropriately. Different employees on campus have different abilities to maintain a person's confidentiality.

## **Procedure for Reporting and Responding to Student Complaints of Sexual Harassment**

### **Privileged and Confidential Communication**

#### **\*Professional Counselors**

Professional, licensed counselors who provide mental-health counseling to members of the College community are not required to report any information about the incident to the Title IX Coordinator without a individual's permission. There are

currently no procedures to encourage professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics. Following is the contact information for these individuals:

Professional Development  
Mel Stutzman  
Bryan College of Health Sciences Office 216b  
402-481-3831

Charles L. Stone Health Center Counseling Services  
Hastings College (Face to Face Option)  
Book appointment: [hastings.edu/student-life/health-safety-wellness/student-counseling/](https://hastings.edu/student-life/health-safety-wellness/student-counseling/)

Continuum EAP  
1135 M Street, Ste 400  
Lincoln, NE 68508  
402-476-0186 or  
1-800-755-7636

**\*Non-professional Counselors and Advocates**

Individuals who work in the on-campus Professional Development Services and Health and Wellness Services, and Bryan Medical Center, Employee Health can generally talk to an individual without revealing any personally identifying information about an incident to the College. A individual can seek assistance and support from these individuals without triggering a College investigation that could reveal the individual's identity or that the individual has disclosed the incident.

While maintaining a individual's confidentiality, these individuals or their office should report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report, which includes no information that would directly or indirectly identify the individual, helps keep the Title IX Coordinator informed of the general extent and nature of sexual harassment and interpersonal violence on and off campus so the Coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, these individuals will consult with the individual to ensure that no personally identifying details are shared with the Title IX Coordinator. These individuals or their office will also report the nature, date, time and general location of an incident (but not the identity of the individual, unless necessary to promote safety) to the Security Department so that the report can be included in the College's crime statistics.

Following is contact information for these non-professional counselors and advocates:

Health and Wellness Services  
Melinda White  
Melissa Jones  
Bryan College of Health Sciences Office  
208 402-481-8468

An individual who speaks to a professional or non-professional counselor or advocate must understand that, if the individual wants to maintain confidentiality, the College will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator.

These counselors and advocates will assist the individual in receiving necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health, or mental health services, and changes to working or course schedules. An individual who at first requests confidentiality may later decide to file a complaint with the College or report the incident to local law enforcement, and thus have the incident fully investigated. These counselors and advocates will provide the individual with assistance if the individual wishes to do so.

These professional and non-professional counselors and advocates will maintain a individual's confidentiality at the College but they may have reporting or other obligations under state law such as mandatory reporting to law enforcement in cases involving minors or imminent harm to self or others, and they may be required to testify if subpoenaed in a criminal case.

If the College determines that the alleged perpetrator(s) pose a serious and immediate threat to the College community, the College's Executive Committee may be called upon to issue a timely warning to the community. Any such warning should not include any information that identifies the victim and/or complainant.

### **"Responsible Employees"**

As noted above, a "responsible employee" is a College employee who has the authority to redress Prohibited Conduct who has the duty to report incidents of Prohibited Conduct.

When an individual tells a responsible employee about an incident of Prohibited Conduct, the responsible employee must report to the Title IX Coordinator all relevant details about the alleged Prohibited Conduct shared by the individual which, ideally, will include the names of the individual and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the College's response to the report.

The following categories of employees are the College's responsible employees:

**All regular full and part-time employees who are not identified above as confidential resources are responsible employees.**

Before an individual reveals any information to a responsible employee, the employee should ensure that the individual understands the employee's reporting obligations and, if the individual wants to maintain confidentiality, direct the individual to confidential resources.

If the individual wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the individual that the College will consider the request, but cannot guarantee that the College will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Coordinator of the individual's request for confidentiality.

Responsible employees will not pressure an individual to request confidentiality, but will honor and support the individual's wishes, including for the College to fully investigate an incident. By the same token, responsible employees will not pressure an individual to make a full report if the individual is not ready to or does not wish to do so.

Any student who feels they have been harassed or subjected to Prohibited Conduct may utilize these procedures to initiate an internal complaint to address the situation.

To encourage reporting, any individual (including a bystander or third party) who reports Prohibited Conduct will not be subject to disciplinary action by the College for one's own personal use of alcohol or other drugs at or near the time of the incident, provided that any such violations did not harm or place the health or safety of any other person at risk. The College may offer support, resources and educational counseling to such individual.

### **Initiating a Complaint**

Bryan College of Health Sciences encourages any person who believes that they have been subjected to Prohibited Conduct as defined in this policy to immediately file a complaint with Title IX Coordinator: Dr. Alethea Stovall, Dean of Students, or a member of the College's administration for investigation and action. Any party receiving a complaint is required to report the complaint to the Title IX Coordinator/Dean of Students (hereafter, Title IX Coordinator).

Students, faculty staff, and visitors who witness or are aware of suspected incidents of Prohibited Conduct as defined in this policy are strongly encouraged to report the incident to:

Title IX Coordinator:

Alethea Stovall, Dean of Students,

1535 S. 52nd St., office #233, Lincoln, NE 68506,

402-481-3804 or [alethea.stovall@bryanhealth.org](mailto:alethea.stovall@bryanhealth.org)

Deputy Title IX Coordinator:

Sue Pilker, Assistant Dean of Undergraduate Nursing

1535 S. 52nd St., office #321, Lincoln, NE 68506,

402-481-8712 or [sue.pilker@bryanhealth.org](mailto:sue.pilker@bryanhealth.org)

If a member of the Bryan College of Health Sciences community observes a violation of this Sexual Harassment/Interpersonal Violence Policy wherein a minor (an individual under the age of nineteen (19) years of age) is involved, Nebraska law requires them to report it to the proper law enforcement agency or Department of Health and Human Services. A report should also be made to campus security, if the individual is facing immediate danger.

In accordance with the Clery Act, students or employees reporting that they have been a victim of domestic or dating violence, sexual assault, and stalking, will be provided written notice of their rights and options, which include: (i) to be assisted by campus authorities if reporting a crime to local law enforcement; (ii) change academic, living, transportation and or working situations or protective measures; (iii) obtain or enforce a no contact directive or restraining order; (iv) have a clear description of Bryan College of Health Science' disciplinary process and know the range of possible sanctions; and (v) receive contact information about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student and financial aid, and other services available both on-campus and in the community. Providing this statement in written format to the victim shall meet the requirement of providing the victim their rights. More information about these issues is provided below.

In addition to the complainant's ability to file a complaint with the College, the complainant has the right to simultaneously file/report a complaint with local law enforcement. College personnel will assist the complainant in reporting the alleged offense to the police if they desire such assistance. The complainant will also be informed of the importance of preserving evidence of a criminal offense at the time of the first reporting. College action against violators of this policy does not in any way preclude the possibility of criminal action by civil authorities, should the complainant wish to pursue criminal charges. If the complainant chooses to make a police report, they will likely meet with police officers, who will work with the complainant to gather information about the experience, and to gather relevant evidence. Again, College representatives can support the complainant in interactions with law enforcement authorities if that is desired. An individual may also decline to notify law enforcement authorities.

The College will attempt to respond to reports of Prohibited Conduct brought anonymously or brought by third parties not directly involved in the reported conduct, to the greatest extent practical. However, the response to such reports may be limited if information presented in the report cannot be verified by independent facts.

### **Supportive Measures**

It is not necessary to file a complaint, participate in an adjudication process, or file a criminal complaint in order to request Supportive Measures from the College. Supportive measures are 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 formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to College's education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter Prohibited Conduct.

Supportive Measures may include but are not limited to:

- No Contact Orders restricting encounters and communications between the parties;
- No Trespass Notices prohibiting the presence of an individual on College property, or other properties on which College programs are occurring;
- Academic accommodations, including but not limited to deadline extensions, incompletes, course changes or late drops, or other course-related adjustments and arrangements as appropriate;
- Changing transportation or working situations arrangements or providing other employment accommodations, and/or leaves of absence, as appropriate;
- Assisting the individual in accessing support services, including, as available, victim advocacy, academic support, counseling, confidential resources, disability, health or mental health services, visa and immigration assistance, student financial aid services, and legal assistance both on and off campus, as applicable
- increased security and monitoring of certain areas of the campus;
- campus escort services; and/or
- Informing the individual of the right to report a crime to local law enforcement and/or seek orders of protection, restraining orders, or relief from abuse orders, and providing assistance if the individual wishes to do so. The College will also work with complainants and others as appropriate to respect and implement the requirements of such orders on premises that it owns or controls, as necessary and appropriate.

Where a complainant reportedly subjected to sexual assault, domestic or dating violence, or stalking makes a reasonable request for accommodations, the College is obligated to comply with that request if such accommodations are reasonably available.

Students and employees seeking Supportive Measures should direct their request to the Title IX Coordinator or designee, who will refer the individual to other resources as appropriate. The request will be evaluated and responded to by the Title IX Coordinator. Factors to be considered in determining reasonable services or accommodations may include the following:

- the specific need expressed by the complainant or respondent;
- the severity and/or pervasiveness of the allegations;
- any continuing effects on the complainant;
- whether the complainant and the respondent share the same residence hall, dining hall, class, extracurricular activities, transportation or job location;
- whether requested Supportive Measures would unreasonably burden a party; and
- whether outside judicial measures have been taken to protect the complainant.

The College will maintain as confidential any Supportive Measures provided to complainants and/or respondents, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the Supportive Measures. As such, the College may need to disclose some information about the individual to a third party to provide the necessary Supportive Measures in a timely manner. The Title IX Coordinator or designee is/are typically responsible for determining what information should be disclosed and to whom it should be disclosed. The decision to disclose information will be made after careful consideration of possible alternatives to disclosure and/or limiting the information provided to the third party as much as possible without compromising the College's ability to provide the Supportive Measures.

#### **Steps in Initiating and Investigating a Complaint of Prohibited Conduct**

All proceedings will include prompt, fair, and impartial processes from the initial investigation to the final result, and will be completed within a reasonably prompt timeframe as described below. The College will provide written notice to the parties where extensions of timeframes are granted for good cause, and the reason for the extension. Proceedings will be conducted in a manner that is consistent with College policy and transparent to the parties, timely notice of meetings will be provided to the parties, the parties will have equal access to any information that will be used during the meetings and other proceedings, and College officials involved will not have a conflict of interest or bias for or against any party.

All proceedings will be conducted by officials who, at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault and stalking and on how to conduct procedures that protect the safety of the victims and promote accountability. Training includes, but is not limited to, topics such as relevant evidence and how it should be used during a proceeding, proper techniques for questioning witnesses, basic procedural rules for conducting a proceeding, and avoiding actual and perceived conflicts of interest.

The complainant and respondent are entitled to the same opportunities to have others present during a disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice. The College will not limit the choice of advisor or the advisor's presence for either party.

Both the complainant and the respondent will be simultaneously informed, in writing: a) of the outcome of any College disciplinary proceeding that arises from an allegation of Prohibited Conduct; b) of the College's procedures for the complainant and respondent to appeal the results of the College disciplinary proceeding; c) of any change to the results that occurs prior to the time that such results become final; and d) when such results become final.

#### **A. Filing a Complaint**

The College encourages any person who has a concern regarding alleged Prohibited Conduct to report it to the Title IX Coordinator (Dean of Students) as soon after the incident as possible. However, there is no time limit on when an incident may be reported to the Title IX Coordinator or other College administrator. Complaints may be made by the following methods:

Title IX Coordinator: Dr. Alethea Stovall; 402-481-3804, [alethea.stovall@bryanhealthcollege.edu](mailto:alethea.stovall@bryanhealthcollege.edu)  
Deputy Director of Title IX: Dr. Sue Pilker, 402-481-8712, [sue.pilker@bryanhealthcollege.edu](mailto:sue.pilker@bryanhealthcollege.edu);  
Professional Development Coordinator: Mel Stutzman, 402-481-3831, [mel.stutzman@bryanhealth.edu](mailto:mel.stutzman@bryanhealth.edu)  
College Health Nurse, Melissa Jones, 402-481-8468, [melissa.jones@bryanhealthcollege.edu](mailto:melissa.jones@bryanhealthcollege.edu)  
College Health Nurse, Melinda White, 402-481-8468, [Melinda.white@bryanhealthcollege.edu](mailto:Melinda.white@bryanhealthcollege.edu)

## B. Initially Evaluating a Complaint

1. Any responsible employee who receives notice of or information about alleged Prohibited Conduct must notify the Title IX Coordinator as soon as possible but no later than five (5) calendar days of receiving the information.
2. Initial Communication with the Complainant and Conducting the Initial Assessment

If a report alleges conduct that would, if proved, constitute Prohibited Conduct, the Title IX Coordinator will:

- promptly contact the complainant to discuss the availability of supportive measures as defined below;
- consider the complainant's wishes with respect to supportive measures;
- inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
- explain to the complainant the process for filing a formal complaint.

The Title IX Coordinator will begin an initial assessment within five (5) calendar days of receiving the complaint unless there are mitigating circumstances. The first step of the assessment will usually be a preliminary meeting with the complainant. The purpose of the preliminary meeting is to gain a basic understanding of the nature and circumstances of the report. It is not intended to be a full review. At this meeting the complainant will be provided with any additional necessary information about resources, procedural options, and Supportive Measures.

As part of the initial assessment the Title IX Coordinator will:

- Assess the nature and circumstances of the allegation
- Address immediate the physical safety and emotional well-being of the complainant
- Notify the complainant of the right to contact law enforcement and seek medical treatment
- Notify the complainant of the importance of preserving evidence
- Ensure the report is entered into the College's daily crime log
- Assess the reported conduct for the need for a timely warning under the Clery Act
- Provide the complainant with information about on- and off-campus resources
- Notify the complainant of the range of Supportive Measures
- Provide the complainant with an explanation of the procedural options, including informal resolution and formal resolution
- Identify an adviser, advocate, and/or support person for the complainant
- Assess for pattern evidence or other similar conduct by the respondent
- Discuss the complainant's expressed preference for the manner of resolution and any barriers to proceeding
- Explain the College policy prohibiting retaliation

At the conclusion of the initial assessment the complainant may choose one of three options.

- Informal Resolution conducted by the Title IX Coordinator
- Formal Resolution conducted through the College's Formal Appeal Panel
- Declining to move forward with the complaint process

If the complainant declines to move forward with the complaint process, the Title IX Coordinator will explain to the complainant that there may be circumstances in which the College is unable to abide by requests for confidentiality or inaction. In certain circumstances the College may decide that it needs to investigate the complainant's allegations and to take appropriate responsive measures even where the complainant does not wish to pursue a complaint against the respondent or has decided to withdraw a pending complaint.

The initial assessment will proceed to the point where a reasonable assessment of the safety of the individual and of the College community can be made. Thereafter, an investigation may continue through the procedures outlined below, depending on a variety of factors, such as whether the complainant wants the College to pursue disciplinary action, the risk posed to any individual or the College community by not proceeding, and the nature of the allegation. In the course of this assessment, the College will consider the interest of the complainant and the complainant's expressed preference for the manner of resolution. Where possible, and as warranted by an assessment of the facts and circumstances, the College will seek action consistent with the complainant's request. In general, the College will weigh a complainant's request for confidentiality or the desire that the College take no action on the complaint by considering factors such as whether the circumstances of a matter suggest there is an increased risk of the alleged perpetrator committing additional acts of sexual violence or other violence (e.g., whether there have been other sexual violence complaints about the same alleged

perpetrator, whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence, whether the alleged perpetrator threatened further sexual violence or other violence against the student or others, and whether the sexual violence was committed by multiple perpetrators). These factors also may include circumstances that suggest there is an increased risk of future acts of sexual violence under similar circumstances (e.g., whether the student's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group). Other factors that may be considered in assessing a student's request for confidentiality may include, depending on the circumstances, whether the reported sexual violence was perpetrated with a weapon; the age of the student reportedly subjected to the sexual violence; and whether the College possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

### **C. Supportive Measures**

During the initial meeting with the complainant, the Title IX Coordinator or designee will discuss Supportive Measures that may be available to the complainant. Example Supportive Measures are discussed above.

### **D. Relationship to Other Proceedings**

The filing of a complaint under this policy is independent of any criminal investigation or proceeding, and the College will not wait for the conclusion of any criminal investigation or criminal proceeding before commencing its own investigation or implementing Supportive Measures.

### **E. Determinations of Applicable Procedures, Dismissals, Transfers and Appeals of Such Determinations**

When a complainant requests an investigation, the Title IX Coordinator will promptly upon receipt of a formal complaint:

1. determine whether the conduct alleged would, if proved, constitute Title IX Sexual Harassment (i.e., Quid Pro Quo Sexual Harassment, Severe, Pervasive and Objectively Offensive Sexual Harassment, Sexual Assault, or sex- based Domestic Violence, Dating Violence or Stalking) as defined in the Title IX Sexual Harassment definition stated above;
2. determine whether the conduct allegedly occurred in the College's education program or activity;
3. determine whether the conduct allegedly occurred in the United States; and
4. determine whether at the time the formal complaint was made, the complainant was participating or attempting to participate in a College program or activity.

If a formal complaint of conduct that would, if proved, satisfy all four of these elements and constitute Title IX Sexual Harassment as defined in this policy is filed by a complainant or signed by the Title IX Coordinator, it will be investigated and resolved through the procedures applicable to Title IX Sexual Harassment matters as outlined below.

The College will investigate alleged Title IX Sexual Harassment when a complainant submits a signed or electronically-submitted formal complaint to the Title IX coordinator and requests an investigation. The Title IX Coordinator may also choose at their discretion to sign a formal complaint and initiate an investigation, even if the complainant chooses not to do so. In cases where the complainant does not wish to submit a formal complaint but the Title IX Coordinator decides in their discretion to sign a complaint and initiate an investigation and resolution process, the Title IX Coordinator will not be a complainant or otherwise a party to the matter.

If some but not all of the conduct alleged in the complaint satisfies all four of the elements stated above and a formal complaint is received from a complainant or signed by the Title IX Coordinator, the College will address the entire matter through the procedures applicable to Title IX Sexual Harassment matters as outlined below (that is, it will as required by federal regulations follow Title IX Sexual Harassment procedures to address the alleged Title IX Sexual Harassment, and it will, to promote efficiency, choose to follow Title IX Sexual Harassment procedures to address Non-Title IX Prohibited Conduct and other non-Title IX alleged misconduct in such mixed cases, so that all related alleged misconduct may be addressed through one investigation and resolution process.

If it appears based upon initial review or upon information gathered during an investigation that the matter does not satisfy and/or no longer satisfies all 4 of these elements, the College will, as required by the May 2020 Title IX regulations, dismiss the matter for purposes of the Title IX Sexual Harassment process, and will transfer it for handling under the Non-Title IX Prohibited Conduct procedures outlined below or under other College procedures, as deemed appropriate by College. Investigation and resolution of a matter that does not fall within the definition of Title IX Sexual Harassment may be pursued, dismissed altogether, or transferred to another College process, as deemed appropriate in the College's discretion and/or as appropriate under applicable law.

Even if the initial allegations of a matter fall within the definition of Title IX Sexual Harassment, the College may (but is not required to) dismiss a formal complaint or any allegations therein if at any time during the investigation or resolution process:

- A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled at or employed by the College; or
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If a formal complaint is dismissed by the College under the circumstances described above, the College will simultaneously provide to the parties written notice (by electronic or other means) of the dismissal and the reasons for the dismissal, and notice of the parties' opportunity to appeal such dismissal through the Title IX Sexual Harassment appeal procedures outlined below.

If the respondent is a student and an employee, the Title IX Coordinator will determine which procedures will apply based upon the facts and circumstances, such as whether the respondent's status as a student or an employee predominates in the context of the alleged Prohibited Conduct. If a student-employee is found to have engaged in Prohibited Conduct, the student-employee may be subject to sanctions both in connection with their employment, and in connection with their student status, as appropriate under these and other applicable procedures.

### **Steps in Investigating and Resolving Title IX Sexual Harassment Complaints**

If it is determined through the process described immediately above that the alleged Prohibited Conduct, if proved, would fall within the definition of Title IX Sexual Harassment provided in this policy, the following procedures will apply exclusively.

### **Emergency Removal of Students or Employees in Title IX Sexual Harassment Cases**

When the College determines that there is an immediate threat to the physical health or safety of any student or other individual arising from reported conduct that falls within the definition of Title IX Sexual Harassment in this policy, the College can remove a respondent from its education program or activity (which may include removing an employee respondent from their employment at College) and issue any necessary related no-trespass and no-contact orders. The College will make the decision to remove a respondent from its education program or activity based on an individualized assessment and risk analysis.

If the College makes such a decision, the respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal. Specifically, the respondent shall have forty-eight hours in which to submit a letter to or appear personally or virtually before the [] to contest the emergency removal (though a meeting could be scheduled sooner if requested by the respondent, if practicable).

### **Administrative Leave in Title IX Sexual Harassment Cases**

The College always maintains the discretion to place non-student employee respondents on paid administrative leave during the pendency of an investigation and resolution process as outlined below.

The College may also place a non-student employee respondent on unpaid administrative leave during the pendency of an investigation and resolution process.

The College may place student-employee respondents on administrative leave from their employment during the pendency of an investigation and resolution process where deemed appropriate as a supportive measure, under circumstances where it can do so without unreasonably burdening the student-employee respondent.

### **Notice**

If the College initiates an investigation of Title IX Sexual Harassment it will provide to the parties a written notice (by electronic or other means) that includes:

- Information about the College's formal and informal resolution processes;
- A statement of the allegations of behavior potentially constituting Title IX Sexual Harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial post-intake interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Title IX Sexual Harassment, and the date and location of the alleged incident, if known;



- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- Information regarding the College's presumption of good faith reporting and a summary of the College's false information policy;
- Notification that parties may have an advisor of their choice, who may be, but is not required to be, an attorney;
- Notification of existing counseling, health and mental health services available on campus and/or in the community;
- Notification that parties may inspect and review evidence during the investigation and resolution process, as provided below; and
- Notification that taking any retaliatory action (directly or through others) against any person because they are involved in the investigation is prohibited and will be considered a separate violation of College policy.

If in the course of an investigation the College decides to investigate allegations about any party that are not included in the notice described above, it will provide notice of the additional allegations to the parties whose identities are known.

### **Consolidation of Formal Complaints**

The College may consolidate formal complaints as to allegations of Title IX Sexual Harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of such Title IX Sexual Harassment arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one respondent, references in this section to the singular "party," "complainant," or "respondent" include the plural, as applicable.

### **Investigation of Title IX Sexual Harassment Cases**

The Title IX Coordinator or designee will appoint an investigator or investigators (referred to here in the singular as "investigator" for the sake of convenience), who may be College employees or outside investigators, to investigate a complaint. The College will provide notice to the parties of the identity of the investigator. If a party believes that an investigator has a bias against or for complainants or respondents generally or them particularly as a party, or a conflict of interest, the party may submit a written objection to the Title IX Coordinator that outlines the basis for their objection to the investigator's service. The Title IX Coordinator will make a decision on such objections, and will appoint any alternate investigator, and follow this process as necessary, until an investigator is selected to conduct the investigation.

The investigator will conduct a thorough fact-finding investigation. The investigation will usually include meetings with the complainant and the respondent separately, as well as witnesses who may have material information about the events that are the basis of the complaint. The investigator may also collect and examine any physical evidence or documents, emails, text messages, etc. that may be relevant to the events in question. At any time during the investigation, the complainant and respondent may provide written statements or other supporting materials that may be helpful to the investigator. The complainant and respondent are entitled to be accompanied by an advisor of their choice whenever meeting with the investigator. Advisors can confer privately with their advisee, but cannot question the process nor address the investigator. The parties will be given periodic status updates throughout the investigation.

To protect the integrity of the investigation, complainants, respondents, witnesses, affected parties and advisors shall not, except as specifically permitted below, disclose any information discussed or revealed during the investigation while the investigation and adjudication process is still pending, other than to the investigator, and/or a confidential resource such as their mental health counselor or attorney (who also must not disclose such information), or a non- attorney advisor (who also must not disclose such information).

The College will endeavor to complete the investigation portion of the process within 90 days of issuing a notice of investigation as described above, but this may be extended at the College's discretion due to factors such as the complexity of the matter, the availability of witnesses, requests by a law enforcement agency for a temporary delay in the investigation process (see below), College breaks, and other legitimate reasons.

The following general investigation-related provisions are applicable only to the investigation of matters that fall within the definition of Title IX Sexual Harassment, as required by 2020 Title IX regulations. In such matters, the following provisions will apply:

- Parties' equal opportunity to present witnesses may include evidence from fact and expert witnesses; and
- Parties are not restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence; and

- Parties whose participation is invited or expected will receive written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

### **Preliminary Investigative Report**

When the investigator has gathered all of the information that they determine should be gathered preliminarily, the investigator will prepare a preliminary investigative report. The preliminary investigative report will summarize relevant evidence but will not contain any recommendations regarding whether the respondent violated this policy or any other College policy at issue.

The College will provide each party with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised, including the evidence upon which College does not intend to rely in reaching a determination regarding responsibility and/or which the investigator does not deem relevant, and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Such evidence will not include un-redacted privileged records or information that may have been gathered or received during the investigation, absent written consent from the party holding the privilege.

- The College will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy.
- Parties and advisors are not permitted to download, print or copy such evidence subject to inspection and review, and are not permitted to re-disclose such evidence without the College's permission. Parties and advisors will be required to sign an acknowledgment form indicating that they understand these prohibitions. Violations of these prohibitions may subject parties to College discipline under applicable conduct codes.

### **Review and Response to Preliminary Investigative Report**

The complainant and the respondent will have an opportunity to review the preliminary investigative report and provide written responses to the report. The complainant and the respondent must submit any comments, feedback, additional documents, evidence, suggested questions for individuals interviewed, requests for additional investigation, names of additional witnesses, or any other information they deem relevant to the investigator, additional documents or other evidence, within 10 calendar days after the preliminary investigative report is sent or made available to them for review. The parties' written responses will be considered by the investigator prior to completion of the final investigative report, and some or all of the responses may be attached or otherwise incorporated into the final investigative report.

In the event that new, relevant information is provided or identified at this stage, the information will be incorporated into the preliminary report as deemed appropriate by the investigator.

### **Final Investigative Report**

#### **Final Investigative Report Generally**

After considering any written response submitted by either party, or after the 10 calendar day comment period has lapsed without receiving a written response or responses, the investigator will address any relevant issues identified by the complainant and/or the respondent, and as appropriate, pursue any additional investigative steps as needed. The final investigative report will include the investigator's non-binding recommendation as to whether the respondent should be found responsible for violating the policy provisions at issue. The investigator's recommendation will be reached by applying the preponderance of evidence standard, i.e., whether it is more likely than not that the Policy was violated. The final investigative report will be reviewed by the Title IX Coordinator before it is issued. Final investigative reports will be provided simultaneously to the parties and their advisors, if any. The College will give each party an opportunity to review the other party's written response, if any.

#### **Final Investigative Report**

The following additional provisions regarding the final investigative report will apply in Title IX Sexual Harassment matters:

- The final investigative report created by the investigator will fairly summarize relevant evidence and include as exhibits evidentiary materials as deemed appropriate by the investigator;
- At least 10 calendar days prior to the hearing referenced below, the College will send to each party and the party's advisor, if any, the final investigative report and exhibits in an electronic format or a hard copy, for their review and written response;

- Any written response a party wishes to provide must be submitted to the Title IX Coordinator or designee within 10 calendar days of receiving the final investigative report and exhibits; and
- The final investigative report and the parties' written responses, if any, will be provided to the hearing officer in advance of the hearing.

Deadlines for parties' review of information and submission of comments may be extended upon request for good cause, at the discretion of the Title IX Coordinator or their designee.

Should a respondent who has been notified of an investigation/adjudication fail to cooperate with the investigator, the investigation may proceed, a finding may be reached, and a sanction may be imposed based on the information available.

The complainant may request that the investigation be stopped at any time. The College and/or the Title IX Coordinator will determine whether the investigation can be stopped, or whether, due to countervailing concerns of campus safety, it is unable to honor the complainant's request to stop the investigation.

### **Hearing and Resolution Provisions Applicable Only to Title IX Sexual Harassment Matters Hearings**

Live hearings will be provided in Title IX Sexual Harassment matters, as required by the May 2020 Title IX regulations.

#### **Hearing Officers**

Hearings will be presided over by a hearing officer, who will make the decision as to whether or not the respondent violated the policy provisions at issue. This decision will be made using the preponderance of the evidence standard, which means that a policy violation will only be found if the evidence establishes that it is more likely than not that the violation occurred. The hearing officer has broad authority to determine the process, timing and conduct of a hearing. For example, the hearing officer will determine the order of presentation, timing and overall duration of the hearing, what information and evidence will be heard, what information and questions are relevant to the determination of the matter, and what cross-examination questions will or will not be permitted.

Hearing officers will be appointed by the Title IX Coordinator. In selecting a hearing officer for a particular matter, the Title IX Coordinator will take care to select an individual who does not have a conflict of interest or bias against complainants or respondents generally or an individual complainant or respondent. The College will notify the parties of the identity of the hearing officer in advance of the hearing, and parties may, within 3 calendar days of such notice, object to the service of the hearing officer by providing a written statement (which may be transmitted electronically) as to why the party believes that the hearing officer has a conflict of interest or bias. The Title IX Coordinator or designee will make decisions regarding such objections and the appointment of an alternate hearing officer, as necessary.

#### **Advisors**

Each party may have an advisor of their choice present at a hearing for the limited purpose of conducting cross-examination on behalf of that party. Advisors may be, but are not required to be, attorneys. If a party does not have an advisor of their choice present at a hearing, the College will without fee or charge to the party provide an advisor of the College's choice, again for the limited purpose of conducting cross-examination on behalf of that party. No later than 10 calendar days before the hearing, parties should inform the Title IX Coordinator of the identity of any advisor of choice who will accompany them to the hearing, so that the College will know whether or not it needs to arrange for the presence of a College-provided advisor.

At a time and manner deemed appropriate by the hearing officer, the advisor for each party will be permitted to ask the other party and any witnesses all relevant cross-examination questions and follow-up questions, including those challenging credibility. Except for that limited role, advisors may not participate actively in the hearing and may not speak or otherwise communicate on the part of the party that the advisor is advising. However, the advisor may consult privately in a non-disruptive manner with their advisee during and/or at a recess in the hearing. Scheduling accommodations generally will not be made for advisors if they unduly delay the process. The College reserves the right to take appropriate action regarding any advisor who disrupts the process, or who does not abide by the restrictions on their participation as determined in the sole discretion of the hearing officer, which may include exclusion of the advisor from the hearing and the appointment of an alternate College-provided advisor.

#### **Requests for Appearance of Witnesses**

If a party wishes to have an individual appear at the hearing as a witness, they must provide notice of the identity of the proposed witness and a brief description of the subject matter of the witnesses' testimony to the Title IX Coordinator or designee at least 10 calendar days before the date of the hearing. The Title IX Coordinator or designee, in consultation with the hearing officer as necessary, will determine whether the witness is likely to have information that is relevant to the

hearing, and if it is determined that the witness is likely to have relevant information, the Title IX Coordinator or designee will inform the witness that their presence at the hearing is required (to the extent that the College has jurisdiction to require the presence of the witness) or requested.

### **Conduct of Hearings and Relevance**

At or before the hearing, the hearing officer will receive a copy of the final investigative report, any attachments thereto, and copies of the parties' written responses to the final investigative report, if any, which will be part of the information of record to be considered by the hearing officer. The recommendation regarding responsibility made by the investigator in the final investigative report is only advisory and is not binding on the hearing officer; the hearing officer will make an independent determination regarding responsibility based upon the investigative report, evidence admitted at the hearing, and the testimony and cross-examination of parties and witnesses at the hearing, as applicable.

Subject to the discretion of the hearing officer, hearings will ordinarily begin with introductory remarks by the hearing officer, followed by opening statements from any party who wishes to provide one, followed by the hearing officer's asking relevant initial questions of the parties as deemed appropriate by the hearing officer. During this portion of the hearing, advisors may confer privately and in a non-disruptive manner with their advisee, but they are not allowed to make opening statements or otherwise address the hearing officer or anyone else present at the hearing.

After the hearing officer has asked their initial questions of the parties, the hearing officer will permit each party's advisor to ask the other party all relevant questions and follow-up questions, including those challenging credibility.

Subject to the discretion of the hearing officer, questioning of witnesses will generally follow a similar process, whereby the hearing officer will pose relevant questions to each witness, then the parties' advisors will be permitted to ask relevant questions of witnesses.

In accordance with May 2020 Title IX regulations, such cross-examination by advisors will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Advisors are not permitted to object to hearing officer decisions regarding relevance during a hearing.

Regarding the evidence subject to inspection and review that was provided to the parties and their advisors under the Title IX Sexual Harassment matter-specific investigation procedures outlined above, a copy of such evidence will be made available at the hearing, and each party and/or their advisor (as applicable) will have an equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Information protected under a legally recognized privilege (such as, for example, privileged communications between a party and their physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a treatment capacity, or privileged communications between a party and their attorney), is not relevant unless the person holding the privilege has waived the privilege.

At the request of either party, the College will provide for the hearing to occur with the parties located in separate rooms with technology enabling the hearing officer and parties to simultaneously see and hear the party or the witness answering questions. Live hearings may be conducted with all parties physically present in the same geographic location or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

If a party or witness does not submit to cross-examination at the live hearing, the hearing officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the hearing officer will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

At the discretion of the hearing officer, parties (but not their advisors) will usually be given an opportunity to make a closing statement at the conclusion of the hearing.

### **Record of Hearings**

The College will create an audio or audiovisual recording and/or transcript, of any live hearing, and will make it available to the parties for inspection and review.

### **Determinations Regarding Responsibility**

Within 14 days after the hearing, the hearing officer (and if necessary the sanctioning officer, as provided below) will prepare and issue a written determination regarding responsibility and, if applicable, sanctions. In determining responsibility, the hearing officer will apply the preponderance of the evidence standard. The written determination of outcome will include:

- Identification of the section(s) of the College's Title IX Sexual Harassment policy alleged to have been violated;
- A description of the procedural steps taken from the receipt of the complaint through the determination, including but not limited to, as applicable, any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of definitions of sexual harassment for purposes of the College's Title IX Sexual Harassment definitions;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility and, where necessary and in collaboration with the sanctioning officer, a statement regarding any sanctions and the rationale therefor;
- If a finding of responsibility is made, whether Supportive Measures or remedies are being provided to the complainant (but not specifically what those Supportive Measures or remedies are except to the extent that providing notice to the respondent is necessary to effectuate the Supportive Measure or remedy (e.g., a permanent no-contact order)); and
- Identification of the College's procedures and permissible bases for the complainant and respondent to appeal (as outlined below).

The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

The determination will also notify the parties whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant, but will not provide details about any such remedies.

If sanctions are necessary, they will be assigned in accordance with the Sanctions section below. The parties will receive notice simultaneously of the written determination regarding responsibility and, if necessary, any sanctions as determined through the procedures outlined below.

### **Sanctions**

It is the College's belief that sanctions should maximize safety for all students and College constituents, relate to the nature of the behavior, and provide an opportunity for growth and learning. In the context of sexual harassment and interpersonal violence, sanctions will also be designed to restore the complainant's equal access to College education programs or activities. The range of possible sanctions when a student is found responsible for Prohibited Conduct is as follows:

#### **Written Warning**

A written warning is a notice that the student's behavior is unacceptable and that further misconduct may result in further disciplinary action. A copy of the warning letter is placed in the student's academic file.

#### **Fines**

A monetary fine may be imposed. Failure to pay or to make arrangements to pay a fine may result in a hold being placed on the student's account.

#### **Restitution**

Restitution may be imposed in the form of monetary payment to repair or otherwise compensate for damages caused by the student. Failure to pay or to make arrangements to pay may result in a hold being placed on the student's account.

**Loss of Privileges**

A student may be restricted or excluded from participation in curricular or extra-curricular activities for a specified period of time.

**Educational Sanction**

Educational sanctions may include mediation, drug and alcohol education/treatment, public presentation, formal apology, research paper, college completion contract, etc.

**Suspension**

Termination of student status at the College for a specified period of time, with the possibility of reinstatement, provided that the student has complied with all conditions imposed as part of the suspension and provided the student is otherwise qualified for reinstatement. Depending on the length of the suspension, transition activities may be required. Suspension involves the exclusion of the student from participation in any academic or other activities of the College. Written notification of this action will be provided to the student. The student may be withdrawn from all courses carried that semester and shall forfeit all tuition/fees according to the normal refund schedule of the College. The student may not be on the College's premise unless engaged in official business approved in writing by the Dean of Students or College Administrator.

**Dismissal**

Termination of student status. Written notification of this action will be provided to the student. The action of dismissal will be noted on the student's academic transcript; the student will be withdrawn from all courses carried that semester and shall forfeit all tuition/fees according to the normal refund schedule of the College. The student may not be on the College's premise unless engaged in official business approved in writing by the Dean of Students or College Administrator. Readmission after dismissal may be granted on a case by case basis.

If a hearing officer makes a determination that a respondent is responsible for committing Prohibited Conduct, the hearing officer will inform the sanctioning officer of that determination, and the sanctioning officer will review information regarding the case as deemed necessary for them to determine an appropriate sanction or sanctions. Once the sanctioning officer has determined appropriate sanctions, the sanctioning officer will work with the hearing officer to prepare the written determination of outcome described above, which inform the parties of the hearing officer's and sanctioning officers determinations regarding responsibility and sanctions, and the rationale therefor. The written determination of outcome will be provided to the parties simultaneously.

**Appeals**

Each party to a case falling under this policy has a right to appeal:

- the Title IX Coordinator's dismissal of a formal complaint for Title IX purposes based on the Title IX Coordinator's determination that it did not fall within the definition of Title IX Sexual Harassment (where applicable); or
- the result of a hearing and/or sanctioning process, on the following grounds:
  - There was a procedural irregularity that affected the outcome of the matter;
  - There is new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
  - The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; and/or
  - The sanctions are not appropriate.

Appeals in student respondent cases must be filed with within 5 working days of the case determination. Appeals in faculty respondent cases must be filed with ] within 5 working days of the delivery of the written determination. Appeals in staff employee respondent cases must be filed with within 5 working days of the case determination.

The other party may be notified of any submitted appeal through the Title IX Coordinator or their designee. The other party may submit a written response to the appeal within 5 working days of delivery of the appealing party's appeal. Both parties will be informed of any change to the results of a disciplinary process that occurs prior to the time that such results become final, and when such results become final.

Where an appeal is based on procedural irregularity, new evidence and/or bias/conflict of interest grounds, the Appellate Officer may affirm a finding of responsibility or return the matter to a hearing officer and/or Title IX Coordinator for further

proceedings consistent with the appeal decision. Where an appeal challenges sanctions, the Appellate Officer may affirm, increase, decrease, or modify the sanctions. Appeal decisions will be sent to the parties simultaneously. The decision of the Appellate Officer is final in all cases.

Absent extenuating circumstances, appeals will ordinarily be decided within 30 days of the appellate officer's receipt of the appeal.

#### **Informal Resolution of Title IX Sexual Harassment Cases**

At any time prior to reaching a determination regarding responsibility, the College may facilitate an informal resolution process (e.g., mediation) of a Title IX Sexual Harassment case, where requested by a party and agreed to by both parties. If a party requests the initiation of an informal resolution process and the Title IX Coordinator agrees that the matter is appropriate for informal resolution, the College will provide to each party a written notice that discloses:

- The allegations;
- The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations-
  - The College generally permits parties to withdraw from the informal resolution process and initiate or re-initiate a formal investigation and hearing process at any time before the informal resolution process is completed and any informal resolution is agreed to in writing by the parties); and
- Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

All parties and the Title IX Coordinator must agree to informal resolution for this option to be used. The Title IX Coordinator will assess the request for informal resolution in light of factors such as, but not limited to, the severity of the alleged violation and the potential risks to campus community members posed by the reported misconduct. The College will only proceed with an informal resolution process if both parties provide their voluntary, written consent to having the matter resolved through the informal resolution process.

Informal resolution options (e.g., mediation, restorative practices, or other alternate resolution methods) will be offered as deemed appropriate by the College and will be employed as agreed upon by the parties.

The matter will be deemed resolved if and when the parties expressly agree in writing to an outcome that is acceptable to them and which is approved by the Title IX Coordinator (in consultation with other College administrators as deemed necessary). A party may withdraw from the informal resolution process at any time prior to their execution of a written informal resolution agreement. After an informal resolution is agreed to in writing between the parties, neither party may initiate a formal resolution process regarding the same factual allegations.

At any time before a matter is resolved through informal resolution, the Title IX Coordinator may terminate an informal resolution process and initiate or re-initiate a formal investigation and resolution process at any time, as they deem appropriate in their discretion.

#### **Steps in Investigating and Resolving Non-Title IX Prohibited Conduct**

The following steps apply exclusively to the investigation and resolution of reports of conduct that, if proved, would constitute Prohibited Conduct under this policy but that would not fall within the definition of Title IX Sexual Harassment provided above.

#### **Investigating the Complaint**

Following the initial meeting between the complainant and the Title IX Coordinator, the complaint will be investigated by the Title IX Coordinator. If the complainant has declined to proceed with the complaint process, then the matter will be pursued only after consideration of the factors set forth in Section B.2 Conducting the Initial Assessment of this policy. The purpose of this investigation is to determine whether good cause exists to proceed with either informal or formal resolution of the complaint and shall be completed within thirty (30) calendar days. Failure to comply with the investigator's requests may result in disciplinary action.

#### **Notification of the Respondent**

A respondent will be notified when the College seeks action that would impact a respondent, such as protective measures that restrict the respondent's movement on campus, the initiation of an investigation or the decision to involve the respondent in the informal resolution process.

The Title IX Coordinator shall notify the respondent, in writing, of the complaint, advise the respondent of the need for confidentiality, and instruct the respondent to not engage in any retaliatory behavior. The notice to the respondent will also include a summary of the allegations, the possible sanctions, and a brief description of the facts presented to support the allegations. For all allegations which could result in dismissal, the notice will include this possibility and will specify that dismissal prevents any future readmission to the College.

Both the complainant and the respondent will be given a copy of this policy.

Both the complainant and the respondent may provide information relevant to the complaint, including the names of any witnesses, to the Title IX Coordinator. In addition to interviewing the complainant and the respondent, the investigator will make reasonable attempts to contact and interview all of the individuals who are identified as witnesses with information relevant to the allegations of harassment or sexual misconduct.

The Title IX Coordinator's investigation will determine whether there is good cause to proceed to informal or formal resolution of the complaint. In order to make this determination, the investigator shall consider the record as a whole, including the nature of the alleged conduct and the context in which it occurred, and determine whether it is more likely than not that this policy has been violated.

The Title IX Coordinator will promptly investigate and prepare a confidential investigation report within thirty (30) calendar days of receiving the complaint, unless an extension of time is necessary in order to conduct a thorough and accurate investigation. If an extension of time is required, the Title IX Coordinator will provide written notification of the revised date for completing the investigation concurrently to both parties.

- **Preponderance of The Evidence Standard**  
In the event that the investigation report concludes that it is more likely than not that this policy has been violated, the complainant may proceed with either informal resolution or formal resolution. The Title IX Coordinator will provide information regarding these processes to the complainant. In the event that the complainant elects not to move forward with the complaint at this stage, the College reserves the right to pursue the complaint in accordance with the formal resolution process.
- **Finding of No Preponderance of The Evidence Standard**  
In the event that the investigation report concludes that it is not more likely than not that this policy has been violated, the complaint will be dismissed. The complainant may, however, appeal the determination of no good cause to the College President. A complainant who wishes to file an appeal must file a petition no later than ten (10) calendar days from delivery of the complainant of the investigation report. An appeal petition shall consist of a detailed written statement specifying the precise grounds for appeal and indicate with precision the supporting facts, and shall be signed by the complainant.
- **The College President will consider the appeal petition and the investigation report to determine whether the original complaint is supported by the preponderance of the evidence standard within five (5) days of receiving the appeal petition.** If the College President concludes that it is more likely than not that this policy has been violated, the President will inform both parties concurrently in writing of their decision, with a copy to the Title IX Coordinator. The Title IX Coordinator will then meet with the complainant to discuss the complainant's options for pursuing their complaint. Alternatively, if the President concurs with the Title IX Coordinator's determination that the complaint is not supported by the Preponderance of The Evidence Standard, the complaint will be dismissed, and no further action will be taken with respect to the complaint. The decision of the College President regarding whether a complaint demonstrates good cause is final and is not subject to appeal.

## **Resolution Process**

### **1. Informal Resolution Procedure**

Informal resolution is a process through which a complaint may be resolved promptly and discreetly, through communication, education and/or mutual agreement.

Participating in the informal resolution process is optional and voluntary by the parties. The parties can end the informal process at any time and stop the proceedings or begin the formal resolution process. The goal of informal resolution is to resolve concerns at the earliest stage possible, with the cooperation of the parties involved.

The Title IX Coordinator will meet separately with both the complainant and the respondent to gather any additional



information regarding the conduct alleged. The Title IX Coordinator will identify and recommend an appropriate sanction to address the respondent's conduct. The proposed finding of responsibility and sanction recommendation will be concurrently communicated in writing to both the complainant and the respondent. The complainant and the respondent will then have the opportunity to either accept or reject the proposed resolution.

If the matter is resolved informally to the satisfaction of all parties, the parties will document their acceptance in writing, and the informal resolution process will terminate, the sanctions (if any) will be imposed, and no further appeal shall be available to either party. The Title IX Coordinator will maintain a record of the complaint and its resolution.

If either party rejects the proposed resolution, the informal resolution process will terminate, and the complainant or the College will have the right to pursue the complaint through the formal resolution process. Upon the conclusion of the informal resolution process, the Title IX Coordinator will meet with the complainant to advise the complainant regarding the formal resolution process. If the complainant chooses to pursue the formal resolution process, they shall notify the Title IX Coordinator of this intention within five (5) days of terminating the informal resolution process. The College reserves the right to pursue the complaint in the event that the complainant declines to take further action.

In the interim between the conclusion of the informal resolution and the initiation of the formal resolution processes, the Title IX Coordinator may implement or extend interim protective measures, as appropriate.

## 2. Non-Title IX Formal Resolution Procedure

The non-Title IX formal resolution process at Bryan College of Health Sciences involves a Formal Appeal Panel review. The panel review is comprised of members of the College's Executive Committee and the program dean/director.

The following panel review procedures regarding presentation of evidence will be in effect:

- If either party intends to present forensic evidence, a trained forensic examiner must be present and available to testify regarding the nature of the evidence. No witness or exhibit may be presented if the identity of the witness or a copy of the exhibit was not submitted to the other party by the established deadline.
- A party shall not have the right to question another party directly; however, each party may submit proposed questions to the Formal Appeal Panel members to ask of the other party if the Formal Appeal Panel members determine, at their sole discretion, that the proposed questions are designed to elicit relevant information. The Formal Appeal Panel may also independently question the parties and witnesses in order to acquire additional information about the complaint.
- Evidence of the Complainant's sexual behavior or history may not be presented unless the behavior or history.
  - was between the complainant and the respondent
  - is offered for the purpose of showing that the act or acts charged were not committed by the respondent is evidence of an occurrence or occurrences of sexual behavior so distinctive and so closely resembling the respondent's account of the alleged encounter with the complainant as to tend to establish that the complainant consented to the act or acts charged
- Sexual behavior otherwise admissible under this section may only be proved by evidence of specific acts and may not be proved by reputation or opinion. Until a determination is made under this section that specific evidence is admissible, no reference to the complainant's alleged sexual behavior or history shall be made in the presence of the committee, and no evidence of this behavior or history shall be introduced at any time during the hearing.

The Formal Appeal Panel will use the preponderance of the evidence standard to resolve the complaint. Decisions made by the Formal Appeal Panel are final pending the right to request an appeal based on new evidence or violation of due process.

### **Possible Disciplinary Sanctions**

The purpose of disciplinary sanctions for violations of this policy is to educate students about responsible behavior as members of the Bryan College of Health Sciences community, to maintain order, and to protect the rights of others. There is no set sanction for any of the offenses provided in this policy, with the exception of automatic dismissal for a felony conviction. Sanctions will be determined individually and will reflect the nature and severity of the offense.

Sanctions may include, but are not limited, to one or more of the following: alteration of class schedule, disciplinary reprimand, loss of privileges, restitution, written warning, suspension, and dismissal. Notwithstanding College's right to impose a sanction under this policy, students may also be subject to penalties at the local, state, and federal level.

The College reserves the right to apply any sanction for a violation of the College Values, which in its sole discretion, appropriately addresses the gravity and frequency of the offense. One or more sanctions may be imposed for any offense. Prior offenses are cumulative and any student found in violation of the same offense or a second offense of equal or greater magnitude may be suspended or dismissed from the College.

The College will, upon written request, disclose to the alleged victim of a crime of violence (as that term is defined in section 16 of title 18, United States Code), or a non-forcible sex offense (incest or statutory rape), the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.