

# Cox College

## COLLEGE POLICY

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**TITLE:** Non-Discrimination/Harassment Policy and Complaint Procedures

**SUBMITTED BY:** Director of Compliance and Assurance

**APPROVED BY:** Policy and Compliance Council 6/1/2017; Leadership Cabinet 6/7/2017;  
Board of Trustees 6/20/2017

**NEXT REVIEW:** 6/20/2020

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### **Purpose:**

Cox College is committed to maintaining a community that values the worth and dignity of every person, and fosters understanding and mutual respect among its members. The College adheres to a strict non-discrimination policy regarding the treatment of members of the College community.

### **Policy:**

#### **I. Policy Statement**

Cox College is committed to maintaining a community that values the worth and dignity of every person, and fosters understanding and mutual respect among its members. Cox College does not discriminate against any member of the College community on the basis of race, color, national origin, religion, disability, age, veteran status, political affiliation, sex, sexual orientation, gender identity, pregnancy, marital status, or any other basis protected by law in its programs and activities.

Harassment consists of unwelcome conduct, whether verbal, physical, digital/electronic, or visual, based on a person's protected status such as age, sex, color, disability, marital status, race, religion, ethnic or national origin, and any other basis protected by law. Sex discrimination includes discrimination on the basis of pregnancy, gender identity, and failure to conform to stereotypical notions of femininity and masculinity. Sexual violence is a severe form of sexual harassment prohibited by this Policy. The College will not tolerate, condone, or subject anyone to any form of harassment. In addition to being illegal, any form of prohibited harassment violates the dignity of the individual and the integrity of the College as an institution of learning.

#### **II. Applicability**

This Policy and the corresponding complaint resolution procedures set forth below apply to complaints and reports that allege discrimination and/or harassment on the basis of race, color, national origin, religion, disability, age, veteran status, political affiliation, sex, sexual orientation, gender identity, pregnancy, marital status, or any other basis protected by law, including complaints made by College employees and/or students against faculty, staff, students, supervisors, co-workers, third party visitors, or other non-employees (such as vendors) ("College Community"). This Policy prohibits sex discrimination, sexual harassment, and sexual violence when the complainant and alleged perpetrator are members of the same or opposite sex, and it

applies regardless of national origin, immigration status, or citizenship status. The College's prohibition on discrimination and harassment extends to all aspects of its educational programs and activities, including, but not limited to, admissions, employment, academics, and student services.

The College has jurisdiction over conduct covered by this Policy that occurs on campus, during or at an official College program or activity (regardless of location), or off campus when the conduct could create a hostile environment on campus or prevent an individual from participating in or benefitting from the College's programs and/or activities. The College will investigate complaints made under this Policy and, if necessary, take action to stop the complained of conduct, remedy its effects, and prevent its recurrence in the future.

All College employees, or designees, involved in processing complaints made pursuant to this Policy and during the complaint resolution procedures will be trained in complaint investigation, trained in the College's policies and procedures, and knowledgeable about the College's obligation to comply with laws prohibiting harassment and discrimination in the College's programs and activities.

### **III. Title IX Statement**

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

Jana Roberts  
Director of Compliance and Assurance/Title IX Coordinator  
Cox College  
1423 N. Jefferson Ave.  
Springfield, MO 65802  
417-269-3598  
[compliance@coxcollege.edu](mailto:compliance@coxcollege.edu)

The College has also designated the following Deputy Title IX Coordinator to assist the Director of Compliance and Assurance/Title IX Coordinator in carrying out his or her duties under this policy:

Dr. Sonya Hayter  
Dean of Student Affairs and College Development  
Cox College  
1423 N. Jefferson Ave.  
Springfield, MO 65802  
417-269-3469  
[sonya.hayter@coxcollege.edu](mailto:sonya.hayter@coxcollege.edu)

A person may also file a complaint of sex discrimination with the United States Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting [www2.ed.gov/about/offices/list/ocr/complaintintro.html](http://www2.ed.gov/about/offices/list/ocr/complaintintro.html) or by calling 1-800-421-3481.

#### **IV. Sexual Misconduct Definitions**

##### **A. Sexual Misconduct**

“Sexual misconduct” is an umbrella term covering sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, and stalking. This term will be used throughout the remainder of this Policy and the complaint resolution procedures when collectively referring to these types of conduct.

##### **B. Sex Discrimination**

Sex discrimination occurs when persons are excluded from participation in, or denied the benefits of, any College program or activity because of their sex. Sex discrimination can include adverse treatment based on one's sex, as well as the other prohibited conduct outlined below.

##### **C. Sexual Harassment**

###### **1. Definition of Sexual Harassment**

Sexual harassment is unwelcome conduct of a sexual nature and includes sexual advances, requests for sexual favors, and other verbal, physical, visual, or digital/electronic conduct of a sexual nature when:

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

the respective ages of the parties, the context in which the conduct occurred, and the number of persons affected.

## 2. Examples of Sexual Harassment

Some examples of sexual harassment include:

- Pressure for a dating, romantic, or intimate relationship
- Unwelcome touching, kissing, hugging, rubbing, or massaging
- Pressure for sexual activity
- Unnecessary references to parts of the body
- Sexual innuendos, jokes, humor, or gestures
- Displaying sexual graffiti, pictures, videos or posters
- Using sexually explicit profanity
- Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities
- Social media use that violates this policy
- Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin
- Sending sexually explicit emails or text messages
- Commenting on a person's dress in a sexual manner
- Giving unwelcome personal gifts such as flowers, chocolates, or lingerie that suggest the desire for a romantic relationship
- Commenting on a person's body, gender, sexual relationships, or sexual activities
- Sexual violence (as defined below)

### D. Sexual Violence

#### 1. Definition of Sexual Violence

Sexual violence is a particularly severe form of prohibited sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity, because he or she is below the minimum age of consent in the applicable jurisdiction, or because of his or her incapacitation due to the use of drugs and/or alcohol. Other types of conduct may also constitute sexual violence.

#### 2. Examples of Sexual Violence

Some examples of sexual violence include:

- Rape or sexual assault: sexual intercourse (anal, oral, or vaginal) by a man or woman upon a man or woman without consent
- The use of force or coercion to effect sexual intercourse or some other form of sexual contact with a person who has not given consent

- Unwilling sexual penetration (anal, vaginal, or oral) or other sexual touching with any object or body part that is committed by force, threat, intimidation, or otherwise without consent
- Having sexual intercourse with a person who is unconscious because of drug or alcohol use
- Hazing that involves penetrating a person’s vagina or anus with an object
- Sexual exploitation, which includes, but is not limited to, the following:
  - Sexual voyeurism
  - Use of the “date rape drug” to effect sexual intercourse or some other form of sexual contact with a person
  - Knowingly transmitting a sexually transmitted disease such as HIV to another person through sexual activity
  - Secretly videotaping or photographing sexual activity where the other party has not consented
  - Disseminating sexual pictures or videos of another person without consent regardless if the pictures or videos were obtained with consent
  - Prostituting another person

#### E. Consent

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

- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- If a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.
  - Warning signs of when a person may be incapacitated due to drug and/or alcohol use include: slurred speech, falling down, passing out, and vomiting.
- If a person is asleep or unconscious, there is no consent.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- If a person is below the minimum age of consent in the applicable jurisdiction, there cannot be consent.
- Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.
- Being in a romantic relationship with someone does not imply consent to any form of sexual activity.
- Effective consent may not exist when there is a disparity in power between the parties (e.g., faculty/student, supervisor/employee).

## F. Domestic Violence, Dating Violence, and Stalking

The crimes of domestic violence, dating violence, and stalking can also constitute sexual misconduct when motivated by a person's sex. These types of conduct, no matter the motivation behind them, are a violation of this Policy and will be addressed pursuant to the Complaint Resolution Procedures below.

### 1. Domestic Violence

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

- Missouri's definition of domestic violence can be found at Mo. Rev. Stat. § 455.010.
- Under Missouri law, domestic violence also includes the crime of "domestic assault" which can be found at Mo. Rev. Stat. §§ 565.072-565.074.

### 2. Dating Violence

"Dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

- Missouri law does not specifically define dating violence, but conduct of this nature is covered by Missouri's definitions of domestic violence and domestic assault.

### 3. Stalking

"Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

- Stalking can include conduct that occurs via electronic communications, including social media (i.e., "cyberstalking").
- Missouri's definition of stalking can be found at Mo. Rev. Stat. § 455.010 and § 565.225.

## V. Roles and Responsibilities

### A. Title IX Coordinator

It is the responsibility of the College's Title IX Coordinator to: (1) ensure the College's compliance with Title IX; (2) identify and address any patterns or systemic problems of sexual misconduct at the College; (3) coordinate dissemination of information and education and training programs; (4) receive complaints under this Policy; (5) assist members of the College Community in understanding that sexual misconduct is prohibited by this Policy; (6) answer questions about this Policy; (7) ensure that employees and students are aware of the procedures for reporting and addressing complaints of sexual misconduct; and (8) to implement the Complaint Resolution Procedures or to designate appropriate persons for implementing the Complaint Resolution Procedures. The Deputy Title IX Coordinator will assist the Title IX Coordinator in carrying out these responsibilities.

### B. Administrators, Deans, Department Chairs, and Other Managers

It is the responsibility of administrators, deans, department chairs, and other managers (i.e., those that formally supervise other employees) to:

- Inform employees under their direction or supervision of this Policy
- Work with the Director of Compliance and Assurance/Title IX Coordinator to implement education and training programs for employees and students
- Implement any corrective actions that are imposed as a result of findings of a violation of this Policy

### C. Employees

Throughout this Policy, the term "employees" includes all faculty, staff, and administrators. It is the responsibility of employees to review this Policy and comply with it.

### D. Responsible Employee

Throughout this Policy, the term "responsible employee" includes all employees who:

1. have the authority to take action to redress sexual violence or other forms of discrimination, harassment or retaliation prohibited by this Policy;
2. have been given the duty or reporting incidents of sexual violence or any other misconduct by students to the Director of Compliance and Assurance/Title IX Coordinator or other appropriate school designee; or,
3. who could reasonably be believed to have this authority or duty.

Responsible employees include, but are not limited to: faculty members, managers, directors, department heads, deans, vice presidents, president, and public safety officers.

### E. Students

It is the responsibility of students to review this Policy and comply with it.

F. The College

When the College is aware that a member of the College Community may have been subjected to or affected by conduct that violates this Policy, the College will take prompt action, including a review of the matter and, if necessary, an investigation and appropriate steps to stop and remedy the sexual misconduct and any other conduct that may constitute a violation of this Policy. The College will act in accordance with its Complaint Resolution Procedures.

**VI. Complaints**

A. Making a Complaint

1. Employees

All College employees are strongly encouraged to report conduct that may constitute a violation of this Policy to the Director of Compliance and Assurance/Title IX Coordinator or Deputy Title IX Coordinator. Responsible employees (e.g. deans, department heads, faculty members, directors, managers, vice presidents, president, or public safety officers) have a duty to report conduct that may constitute a violation of this Policy to the Director of Compliance and Assurance/Title IX Coordinator or Deputy Title IX Coordinator when they receive a report of such conduct, witness such conduct, or otherwise obtain information about such conduct. A Responsible Employee not reporting conduct that may constitute a violation of this Policy may be disciplined accordingly, up to and including termination.

2. Students

Students who wish to report sexual misconduct and other conduct that may constitute a violation of this Policy should file a complaint with the Director of Compliance and Assurance/Title IX Coordinator or Deputy Title IX Coordinator. Students should be aware that all Responsible Employees at the College have an obligation to report sexual misconduct and other conduct that may constitute a violation of this Policy that they become aware of or witness.

Students may also file a complaint with the United States Department of Education's Office for Civil Rights, as set forth above.

3. Other Persons

Any other persons who are involved in the College's programs and activities, including visitors on campus, who wish to report sexual misconduct should file a complaint with the Director of Compliance and Assurance/Title IX Coordinator or Deputy Title IX Coordinator. They may also file a complaint with the United States Department of Education's Office for Civil Rights, as set forth above.

4. Content of the Complaint

So that the College has sufficient information to investigate a complaint, the complaint should include: (1) the date(s) and time(s) of the alleged conduct; (2) the names of all person(s)



involved in the alleged conduct, including possible witnesses; (3) all details outlining what happened; and (4) contact information for the complainant so that the College may follow up appropriately.

5. Information Provided to Complainant and Respondent

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

6. Conduct that Constitutes a Crime

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

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

If you are the victim of sexual violence, domestic violence, dating violence, or stalking, do not blame yourself. These crimes are never the victim’s fault. When a physical crime of violence has been perpetrated against you, the College recommends that you immediately go to the emergency room of a local hospital and contact local law enforcement, in addition to making a prompt complaint under this Policy.

If you are the victim of sexual violence, domestic violence, or dating violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. As necessary to preserve evidence, victims of sexual violence, domestic violence, or dating violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical examination.

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

Once a complaint of sexual violence, domestic violence, dating violence, or stalking is made to the College, the complainant has several options such as, but not limited to:

- Contacting parents or a relative
- Seeking legal advice
- Seeking personal counseling (always recommended)
- Pursuing legal action against the perpetrator
- Pursuing disciplinary action through the College
- Requesting that no further action be taken
- Requesting further information about the College's policy and procedures for addressing sexual misconduct
- Requesting further information about available resources

#### 8. Vendors, Contractors, and Third-Parties

This Policy applies to the conduct of vendors, contractors, and third parties. Members of the College Community who believe they have been subject to sexual misconduct in violation of this policy by a vendor, contractor, or other third party can make a complaint in the manner set forth in this section.

#### 9. Retaliation

It is a violation of this policy to retaliate against any member of the College Community who reports or assists in making a complaint of sexual misconduct or who participates in the investigation of a complaint in any way. Persons who believe they have been retaliated against in violation of this Policy should make a complaint in the manner set forth in this section.

#### 10. Protecting the Complainant

Pending final outcome of an investigation in accordance with the Complaint Resolution Procedures, the College will take steps to protect the complainant from further discrimination or harassment. This may include, but will not be limited to, assisting and allowing the complainant to change his or her academic, living, transportation, or work situation, to the extent that the College has control over these environments, if options to do so are reasonably available and upon request of the complainant. Such changes may be available regardless of whether the victim chooses to report the crime to CoxHealth Department of Public Safety and Security or local law enforcement. Requests to change an academic, living, transportation, or work situation, or for any other protective measure, should be made to the Director of Compliance and Assurance/Title IX Coordinator or Deputy Title IX Coordinator.

If a complainant has obtained an ex parte order of protection, full order of protection, or any other temporary restraining order or no contact order against the alleged perpetrator from a criminal, civil, or tribal court, the complainant should provide such information to the Director of Compliance and Assurance/Title IX Coordinator or Deputy Title IX Coordinator. The College, in conjunction with CoxHealth Department of Public Safety and Security, will take all reasonable and legal action to implement the order.

## 11. Amnesty

The College recognizes that an individual who has been drinking alcohol or using drugs may be hesitant to report sexual misconduct. To encourage reporting, the College will not take disciplinary action for drug or alcohol use against an individual making a good faith report of sexual misconduct, either as the complainant or as a witness, provided that these conduct violations did not and do not place the health or safety of any other person at risk. The College may, however, require the reporting individual to attend a course or pursue other educational interventions related to alcohol and drugs.

The College's commitment to amnesty in these situations does not prevent action by police or other legal authorities against an individual who has illegally consumed alcohol or drugs.

### B. Timing of Complaints

The College encourages persons to make complaints of sexual misconduct as soon as possible because late reporting may limit the College's ability to investigate and respond to the conduct complained of.

### C. Investigation and Confidentiality

All complaints of sexual misconduct will be promptly and thoroughly investigated in accordance with the Complaint Resolution Procedures, and the College will take disciplinary action where appropriate. The College will make reasonable and appropriate efforts to preserve an individual's privacy and protect the confidentiality of information when investigating and resolving a complaint. However, because of laws relating to reporting and other state and federal laws, the College cannot guarantee confidentiality to those who make complaints.

In the event a complainant requests confidentiality or asks that a complaint not be investigated, the College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name not be disclosed to the alleged perpetrator, the College's ability to respond may be limited. The College reserves the right to initiate an investigation despite a complainant's request for confidentiality in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the College Community.

The Director of Compliance and Assurance/Title IX Coordinator is the person responsible for evaluating requests for confidentiality. The Director of Compliance and Assurance/Title IX Coordinator may consult with other appropriate College officials and legal counsel as necessary.

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

D. Resolution

If a complaint of sexual misconduct is found to be substantiated, the College will take appropriate corrective and remedial action to prevent the recurrence of the conduct and correct its discriminatory effects. Students and employees found to be in violation of this Policy will be subject to discipline up to and including written reprimand, probation, suspension, demotion, termination, or expulsion. Affiliates and program participants may be removed from College programs and/or prevented from returning to campus. Remedial steps may also include counseling for the complainant, academic, transportation, work, or living accommodations for the complainant, separation of the parties, and training for the respondent and other persons.

E. Bad Faith Complaints

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

**VII. Academic Freedom**

While the College is committed to the principles of free inquiry and free expression, sexual misconduct is neither legally protected expression nor the proper exercise of academic freedom.

**VIII. Education**

Because the College recognizes that the prevention of sexual misconduct is important, it offers educational programming to a variety of groups such as: campus personnel; incoming students and new employees participating in orientation; and members of student organizations. Among other elements, such training will cover relevant definitions, procedures, and sanctions; will provide safe and positive options for bystander intervention; and will provide risk reduction information, including recognizing warning signs of abusive behavior and how to avoid potential attacks. To learn more about education resources, please contact the Director of Compliance and Assurance/Title IX Coordinator.

## **Complaint Resolution Procedures:**

### **Investigation**

Cox College will thoroughly, fairly, and promptly investigate all complaints of discrimination and harassment, and the College will take disciplinary action where appropriate. The investigation will be governed by the following procedures.

#### **I. General Principles**

##### **A. Applicability**

These Complaint Resolution Procedures apply to the resolution of all reports under the Non-discrimination/Harassment Policy. They apply to the resolution of complaints against students, faculty, administrators, staff, and third parties.

For purposes of these Complaint Resolution Procedures, “Investigating Officer” means the Director of Compliance and Assurance/Title IX Coordinator, Deputy Title IX Coordinator, and/or designee(s), and may refer to a single investigator or a team of investigators. The Investigating Officer shall have responsibility for administering these Complaint Resolution Procedures.

##### **B. Promptness, Fairness and Impartiality**

These procedures provide for prompt, fair, and impartial investigations and resolutions. All College officials involved in the investigation or appeal process shall discharge their obligations under these Complaint Resolution Procedures fairly and impartially. If an involved College official determines that he or she cannot apply these procedures fairly and impartially because of the identity of a complainant, respondent, or witness, or due to any other conflict of interest, another appropriate individual will be designated to administer these procedures.

##### **C. Training**

These procedures will be implemented by College officials who receive annual training on the issues related to sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, and stalking and how to conduct an investigation that protects the safety of victims and promotes accountability.

#### **II. Investigation and Resolution of the Complaint**

##### **A. Commencement of the Investigation**

Once a complaint is made, the Investigating Officer will review the complaint and commence an investigation as soon as practicable but not later than seven (7) days after the complaint is made. During the course of the investigation, the Investigating Officer may consult with appropriate college personnel and outside counsel. If the complaint is made regarding a Cox College employee, a copy of the complaint will be sent to CoxHealth’s Vice President of Human Resources.

In certain narrow circumstances, the Investigating Officer may commence an investigation even if the complainant requests that the matter not be pursued. In such a circumstance, the Investigating Officer will take all reasonable steps to investigate and respond to the matter in a manner that is informed by the complainant's articulated concerns.

The College will endeavor to conclude its investigation and resolution of the complaint within sixty (60) calendar days of receiving it. Both the complainant and the respondent will be given periodic updates regarding the status of the investigation. If either the complainant or respondent needs additional time to prepare or to gather their witnesses or information, they shall notify the Investigating Officer in writing explaining how much additional time is needed and why it is needed. The Investigating Officer shall respond to any such request within five (5) business days.

### 1. Informal Resolution

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

- The informal process can only be used with both parties' voluntary cooperation and appropriate involvement by the institution (e.g., the Director of Compliance and Assurance/Title IX Coordinator)
- The complainant will not be required to "work out" the problem directly with the respondent
- Either party may terminate the informal process at any time and elevate the complaint to the formal investigation procedures described below
- Informal resolution in the form of mediation, even on a voluntary basis, will not be used to resolve complaints alleging sexual assault

### 2. Interim Measures

At any time during the investigation the Investigating Officer may determine that interim remedies or protections for the parties involved or witnesses are appropriate. These interim remedies may include separating the parties, placing limitations on contact between the parties, suspension, or making alternative class-placement or workplace arrangements. Failure to comply with the terms of these interim remedies or protections may constitute a separate violation of the Non-Discrimination/Harassment Policy.

### 3. Support Person/Advisor

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

person/advisor will be asked to sign an affirmation that he or she understands his or her role in the process.

#### 4. Pending Criminal Investigation

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

#### 5. Rights of the Parties

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

- Equal opportunity to identify and have considered witnesses and other relevant evidence
- Similar and timely access to all information considered by the Investigating Officer
- Equal opportunity to review any statements or evidence provided by the other party
- Equal access to review and comment upon any information independently developed by the Investigating Officer should the Investigating Officer share such information with the other party
- Equal opportunity to address any hearing panel

#### B. The Content of the Investigation

During the investigation, the complainant will have the opportunity to describe his or her allegations and present supporting witnesses or other evidence. The respondent will have the opportunity to respond to the allegations and present supporting witnesses or other evidence. The Investigating Officer will review the statements and evidence presented and may, depending on the circumstances, interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather and consider information relevant to the complaint. All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information.

#### C. Findings and Resolution of the Investigation

At the conclusion of the investigation, the Investigating Officer will prepare a written report. The written report will explain the scope of the investigation and whether any allegations in the complaint were found to be substantiated by a preponderance of the evidence.

The determination will be one of three outcomes:



1. Finding “No Violation”

If there is a determination that the behavior investigated did not violate the Non-Discrimination/Harassment Policy, both parties will be so informed.

2. Finding “Inappropriate Behavior Not Rising To The Level Of A Violation”

There may be a determination that the behavior investigated did not violate the Non-Discrimination/Harassment Policy, but was inappropriate, unprofessional, or violated some other college policy. The Investigating Officer may determine that such inappropriate behavior merits discipline, ongoing monitoring, coaching, or other appropriate action. If so, the Investigating Officer may refer the matter to any appropriate administrator, dean or other manager for further proceedings or disciplinary measures consistent with college policy.

3. Finding “Violation”

If there is a determination that the behavior violated the Non-Discrimination/Harassment Policy, the Investigating Officer, in consultation with any appropriate administrator, dean, or other manager, will determine appropriate corrective and disciplinary action to be taken. In addition, the Investigating Officer will implement reasonable and appropriate measures to ensure that the complainant is not subject to further harassment and to remedy the effects of any discrimination or harassment that may have occurred. Remedial steps may include, but are not limited to, counseling or training, separation of the parties, and/or discipline of the respondent, including written reprimand, suspension, demotion, termination, or expulsion in accordance with college policy. Remedial steps that do not directly affect the respondent shall be redacted from the respondent’s copy of the written summary of findings.

The written determination will be provided to both parties simultaneously within three (3) days of its completion. This determination shall be final subject only to the right of appeal set forth below. If necessary, the version of the report provided to the complainant and/or respondent will be redacted to ensure that information concerning any remedial and/or disciplinary measures is disclosed in a manner consistent with Title IX, the Family Educational Rights and Privacy Act (“FERPA”), and the Clery Act, as explained by the April 4, 2011 Dear Colleague Letter issued by the U.S. Department of Education, available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>.

D. Special Procedure Concerning Complaints Against the President, the Director of Compliance and Assurance/Title IX Coordinator, and Administrators Senior to the Director of Compliance and Assurance/Title IX Coordinator

If a complaint involves alleged conduct on the part of the College President, the College Board of Trustees will designate an appropriate person to conduct the investigation required by these procedures. The written report of the investigation will be presented to the full Board of Trustees, which will prepare and issue the written determination and



implement any appropriate and reasonable measures. The resolution issued by the full Board of Trustees is final and not subject to appeal.

If a complaint involves alleged conduct on the part of the Director of Compliance and Assurance/Director of Compliance and Assurance/Title IX Coordinator or any administrator senior to the Director of Compliance and Assurance/Title IX Coordinator, the President will designate an appropriate person to conduct the investigation required by these procedures. The written report of the investigation shall be presented to the President, who will prepare and issue the written determination and implement appropriate and reasonable measures. The resolution issued by the President is not subject to appeal.

### **III. Appeals**

#### **A. Grounds for Appeal**

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

- The decision was contrary to the substantial weight of the evidence
- There is a substantial likelihood that newly discovered information, not available at the time evidence was presented to the Investigating Officer, would result in a different decision
- Bias or prejudice on the part of the Investigating Officer, or
- The punishment or the corrective action imposed is disproportionate to the offense

#### **B. Method of Appeal**

Appeals must be filed with the President within ten (10) days of receipt of the written determination of the complaint. The appeal must be in writing and contain the following:

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

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

C. Resolution of the Appeal

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

IV. Documentation

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

V. Intersection With Other Policies and/or Procedures

These complaint resolution procedures are the means of resolving complaints alleging violations of the Non-Discrimination/Harassment Policy. To the extent there are any inconsistencies between these complaint resolution procedures and other college grievance, complaint, or discipline procedures, these complaint resolution procedures will control the resolution of complaints alleging violations of the Non-Discrimination/Harassment Policy.

**Related Policies:**     *Non-Discrimination Policy Statement*  
                              *Romantic and Sexual Relationships between Students and Staff*