

CP 2-7 Relationship Violence, Stalking, Bystander, Harassment

COLLEGE PROCEDURE: CP 2-7

APPROVED: 2/29/2024

EFFECTIVE: 2/29/2024

Introduction and Purpose

The policies and the accompanying procedure provides definitions for complaints involving harassment or discrimination based upon race, color, national origin, religion, creed, service in the uniformed services (as defined in state and federal law), veteran status, sex, gender, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation. These complaints may involve, but are not limited to, sexual harassment, discrimination, sexual assault, stalking, etc.

Title IX, Discrimination and Harassment Procedure

Dawson Community College expressly prohibits any acts or threats of violence or discriminatory misconduct—whether verbal, physical, visual, or through electronic means—by any DCC student, staff, or faculty member against another at any time or place. DCC recognizes that such misconduct interferes with all aspects of its functioning. DCC notifies its community that it fosters a safe learning and working environment that supports academic and professional growth of students, staff, and faculty and has zero tolerance for violence or for discriminatory misconduct that is motivated by race, color, ethnicity, national origin, gender, sexual orientation, disability, class, religion, creed, age, marital or relationship status, or political ideas. When incidents occur, the College will hold perpetrators accountable through appropriate disciplinary actions, while respecting the rights of the aggrieved party, in accordance with federal and State laws, the College’s Student Conduct Code, and other applicable College policies.

This procedure is intended to comply with the regulations pertaining to Title IX, The Civil Rights Act of 1991, Title VII, the Americans with Disabilities Act of 1990, and section 501 of the Rehabilitation Act of 1973.

Each member of the DCC community is responsible for creating an atmosphere free of violence, discrimination, intimidation, and harassment. All DCC members have a duty to report to the Title IX Coordinator any conduct which they believe violates DCC procedure and cooperate with any investigation.

DCC prohibits any form of retaliation against anyone affiliated with DCC for reporting violence and misconduct or for cooperating with efforts to investigate and stop it.

Complaint Advice, Reporting, and Grievance Process

DCC encourages prompt reporting of conduct that may violate this procedure. Employees or students seeking advice or wishing to file a report of prohibited conduct or a grievance related to or arising out of prohibited conduct are to contact the Title IX Coordinator.

Any individual (student, third party) may report prohibited conduct to the Title IX Coordinator. Upon receipt of a report of prohibited conduct, the Title IX Coordinator will promptly reach out to the identified Complainant to offer supportive and protective measures, consider the Complainant's wishes with respect to those measures, inform the Complainant of the availability of supportive or protective measures with or without the filing of a Formal Complaint, and meet to assess jurisdiction and discuss potential resolution options, including the process for filing a Formal Complaint. A report of prohibited conduct does not automatically trigger a grievance procedure, informal resolution process, or formal complaint process. The Title IX Coordinator determines whether there is jurisdiction to adjudicate a report. Individuals should not avoid reporting prohibited conduct on jurisdictional grounds or wait to report ongoing conduct until it becomes sufficiently serious to constitute a violation. The Title IX Coordinator may be able to provide advice, take non-punitive preventive measures, and creatively address conflict in the interest of maintaining a safe and equitable campus environment.

Supportive and Protective Measures

Supportive and protective measures are non-disciplinary, non-punitive individualized services and tools offered as appropriate, as reasonably available, and without fee or charge to a Complainant or Respondent before, during, or after the filing of a formal complaint or report. These measures are designed to restore or preserve equal access to the College's programs and activities without unreasonably burdening the other party, and includes measures designed to protect the safety of all parties, the College's campus environment, or prevent or deter potential prohibited conduct.

Supportive and protective measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, safety planning, referrals to on and off-campus services, trainings, mutual restrictions on contact, and other similar measures.

Supportive and protective measures may also be provided to bystanders who intervened in preventing prohibited conduct.

Definitions

1. **Advisor** means a person chosen by a Complainant or Respondent to be present during an investigation and hearing who will assist through the investigation process and conduct cross-examination on behalf of a party during any live hearing. If a party does not have an Advisor during a live hearing, the College will appoint an Advisor to conduct cross-examination on behalf of that party. The parties may each have one Advisor of their choice present for all meetings, interviews, and hearings, if they so choose. The Advisor

may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside the College community. Advisors may not be witnesses to an investigation. The Advisor is not allowed to speak on behalf of a Complainant or Respondent unless asking questions during cross-examination. The Advisor does not “represent” a Complainant or Respondent during an investigation, and may not provide answers on behalf of any party.

2. **Complainant** means an individual who asserts or believes themselves to be a victim of misconduct under the college’s policies.
3. **Day** means any day the College is open for business (administering any business of the college, including but not limited to educating students), which excludes weekends and College-recognized holidays. Unless specified as other days, e.g., calendar days.
4. **Exculpatory Evidence** means evidence that tends to clear a Respondent from responsibility for misconduct.
5. **Formal Complaint**, means a signed document or email originating from a Dawson email that is submitted by a Complainant or signed by the Title IX Coordinator alleging misconduct by a Respondent and requesting that the College investigate and adjudicate the allegation of misconduct. A Formal Complaint may be filed by submitting a report online (https://dawsoncommunitycollege.formstack.com/forms/sexual_misconduct_report) , with the Title IX Coordinator or Deputy Title IX Coordinator in person, by mail, by electronic mail, or at the contact information listed

Title IX Coordinator

Joshua Engle

Dean of Student Success

jengle@dawson.edu

or

Deputy Title IX Coordinator

Daisy Nyberg

Director of Human Resources

dnyberg@dawson.edu

6. **Grievance Proceeding** means the process described below in Section V, and includes an investigation, informal resolution, live hearing, and where applicable, a sanction and opportunity to appeal.
7. **Hearing Panel** determines whether the Respondent(s) is responsible for the allegations of Prohibited Conduct. The Chair of the Hearing Panel is responsible for the writing the final written report. The Chair of the Hearing Panel will be appointed by the Title IX Coordinator. Two other individuals will be appointed by the Title IX Coordinator to serve on the Hearing Panel. If conflict or bias exists within the Hearing Panel, the Title IX Coordinator will select another individual to serve in that role.

8. **Hearing Panel File** means the final written decision, the recording or transcription of the live hearing, and all evidence directly related to the matter.
9. **Inculpatory Evidence** means evidence that tends to establish responsibility for the alleged misconduct.
10. **Investigator** means an individual responsible for collecting evidence and providing an investigation report that outlines all relevant evidence found. An investigator does not have a conflict of interest or bias for or against complainants or respondents. An investigator has been trained on the definitions of misconduct, and the scope of the college's jurisdiction.
11. **Misconduct** means conduct that violates DCC policy or any academic or non-academic violation(s) of the student code of conduct.
12. **Report of Prohibited Conduct** means information submitted to the Title IX coordinator. The information may be submitted using the form located on the Title IX website <https://www.dawson.edu/about/title-ix.html>,
13. **Respondent** means an individual who has been alleged to be the perpetrator of conduct that could constitute Prohibited Conduct.
14. **Title IX Coordinator** means the individual who is primarily responsible for coordinating efforts of the College to maintain Title IX, VAWA, and Clery compliance. The Title IX Coordinator is responsible for intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sexual harassment and retaliation, which includes coordinating responses to reports of misconduct, ensuring that the Grievance Procedure provides for prompt and equitable resolution of Formal Complaints of Prohibited Conduct, ensuring that investigators, Advisors, Hearing Panel members, and all other College officials facilitating an Informal Resolution or Formal Grievance Proceeding are properly trained, and ensuring effective implementation of any remedies. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party.
15. **College Program or Activity** means locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which Prohibited Conduct is alleged to have occurred, and also includes any buildings owned or controlled by a student organization that is officially recognized by the College.
16. **Preponderance of the Evidence** refers to the evidentiary standard used to evaluate the outcome of an investigation. The preponderance of the evidence standard requires that the evidence supporting each finding be more convincing than the evidence in opposition to it.
17. **Consent** means knowingly and voluntarily, by freely giving clear permission by word or overt action, to have sexual intercourse or sexual contact. If coercion, intimidation, threats, or physical force are used, expressed, or implied, or there is duress or deception, there is no consent. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption or being asleep or unconscious. Silence does not necessarily constitute consent. Past consent to sexual activities does not imply ongoing or future consent.

Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent. Consent can also be withdrawn once given as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease immediately. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

18. **Force** is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g. “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want.”)
19. **Coercion** is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Threats, whether or not a person has the intention of carrying out a threat, are a serious matter with possible criminal implications.
20. **Supportive and Protective Measures** are non-disciplinary, non-punitive individualized services and tools offered as appropriate, as reasonably available, and without fee or charge to a Complainant or Respondent before, during, or after the filing of a formal complaint or report. These measures are designed to restore or preserve equal access to the College’s programs and activities without unreasonably burdening the other party, and includes measures designed to protect the safety of all parties, the College’s campus environment, or prevent or deter potential prohibited conduct. Supportive and protective measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, safety planning, referrals to on and off-campus services, trainings, mutual restrictions on contact, and other similar measures. Supportive and protective measures may also be provided to bystanders who intervened in preventing prohibited conduct.
21. **Hostile Environment Sexual Harassment** unwelcome conduct determined by a reasonable person to be so severe and pervasive and objectively offensive that it effectively denies a person to DCC’s programs, services, and activities.
22. **Quid pro quo Sexual Harassment** a DCC employee conditioning an educational benefit or service upon a person’s participation in unwelcome sexual conduct.

College Response

Burden of Proof and Standard of Evidence

Neither a Complainant nor a Respondent has any burden to prove or disprove Prohibited Conduct. The College has the burden to prove through the Grievance Proceeding that a Respondent engaged in Prohibited Conduct. The College presumes that the Respondent has not engaged in Prohibited Conduct until it has made a final determination at the conclusion of the Grievance Proceeding. The standard of evidence for determining whether a Respondent has engaged in Prohibited Conduct is the preponderance of the evidence standard.

Timely Warning

Particular conduct reported may trigger the obligation of the College to make a timely warning notification in accordance with the Clery Act. Specifically, the College must issue timely warnings for incidents reported that pose a serious or continuing threat of bodily harm or danger to members of the campus community. The College will undertake efforts to ensure that names and other personally identifiable information is not released, while providing sufficient information to members of the campus community to make informed decisions consistent with the circumstances.

Dismissal.

The Title IX Coordinator may dismiss a Formal Complaint, if at any time during the investigation or hearing the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or withdraw any allegations the Complainant has made; the Respondent is no longer enrolled 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. Upon dismissal of the Formal Complaint for any reason, the Title IX Coordinator will promptly send written notice of the dismissal and the reason(s) therefore to the parties.

Complaint Procedure

- 1) Following receipt of a Report of Prohibited Conduct and/or a Formal Complaint, the Title IX Coordinator will promptly contact the Complainant to offer Supportive and Protective Measures, consider the Complainant's wishes with respect to Supportive and Protective Measures, inform the Complainant of the availability of Supportive and Protective Measures with or without the filing of a Formal Complaint, and to assess jurisdiction and discuss potential resolution options, including the process for filing a Formal Complaint.
- 2) The Title IX Coordinator may consolidate Formal Complaints as to allegations of Prohibited Conduct 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 Prohibited Conduct arise out of the same facts or circumstances.

Notice.

- a. Following receipt of a Formal Complaint, the Title IX Coordinator will promptly issue a written notice to the Complainant(s) and Respondent(s) who are known. The notice will include a link to or copy of these procedures; a description of the allegations in the Formal Complaint, including sufficient details, including the identity of the parties involved in the incident, if known, the conduct allegedly constituting Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s), if known. The written notice will include a statement that the Respondent(s) is presumed not responsible for the alleged conduct and that a determination regarding responsibility will not be made until the conclusion of the Grievance Process. The notice will inform the parties that they may have an Advisor of their choice, and that the parties may inspect and review evidence as described in these Procedures. If any student is a party, the written notice will also reference the Student Conduct Code.

The College has two processes to resolve a Formal Complaint:

- a. **Grievance Proceeding:** A Grievance Proceeding involves an investigation, a hearing, and, if applicable, sanctions and an appeal. There are two hearing formats to be utilized under these Procedures, one applies to any matter in which Sexual Harassment is alleged; the other applies to all other forms of Prohibited Conduct. All hearings under these Procedures will be conducted in accordance with the Rules of Decorum for Equal Opportunity & Title IX Hearings, attached as Appendix A. The format for all live hearings under these Procedures will comply with the Grievance Proceeding described below at Section V.
- b. **Informal Resolution:** An Informal Resolution, as described below at Section VI, involves both parties' voluntary written consent to participate in the Informal Resolution Process. The Informal Resolution Process may not be used to resolve allegations that an employee sexually harassed a student.

Investigation.

The Title IX Coordinator will assign a properly trained and impartial investigator.

- i.* The investigator is responsible to gather evidence sufficient to reach a determination regarding responsibility or no-responsibility.
- ii.* The investigator may not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to a party, unless the Title IX Coordinator obtains that party's voluntary, written consent to do so for this Grievance Process.
- iii.* The investigator will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other Inculpatory and Exculpatory Evidence.
- iv.* The College will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. The College will not restrict students' and employees' ability to discuss the allegations under investigation to the extent such discussion aligns with a party's right to meaningfully participate in furthering the party's interests in the case. However, this provision in no way immunizes a party from abusing the right to discuss the allegations under investigation by, for example, discussing those allegations in a manner that constitutes Retaliation as defined above. Similarly, where a party's conduct toward a witness might constitute tampering (for instance, by attempting to alter or prevent a witness's testimony), it is prohibited and may constitute a violation of the Student Code of Conduct or relevant employment agreement or policy. Counterclaims made with retaliatory intent will not be permitted. If a counterclaim is not made in good faith, it will be considered retaliatory and may constitute a violation.
- v.* The investigator will provide the parties with the same opportunities to have support persons and an Advisor of their choice present during any interview or meeting related to the investigation.
- vi.* The investigator will provide written notice of the date, time, participants, and purpose of all investigative interviews and other meetings, with sufficient time for a person to prepare to participate.
- vii.* The investigator shall provide a Garrity warning to a Respondent who is an employee if the allegations could lead to criminal prosecution.
- viii.* The investigator will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility 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.

- ix. If in the course of the investigation, information becomes available that leads to the investigation of additional allegations about the Respondent or Complainant that were not included in the initial written notice, the investigator will provide an additional written notice of the additional allegations to the parties whose identities are known.
- x. Prior to the completion of the investigation, the investigator will provide to each party and the party's Advisor, if any, the evidence subject to inspection and review in an electronic format, and the parties will have 10 business days to submit a written response, which the investigator will consider prior to completion of the investigative report.
- xi. The investigator will create a pre-hearing investigative report that fairly summarizes relevant evidence. The pre-hearing investigative report will state whether there is reasonable cause to believe that Prohibited Conduct occurred based upon an objective evaluation of all relevant evidence. The objective evaluation will be based upon the presumption that the respondent(s) is not responsible for the alleged conduct and the preponderance of the relevant evidence standard.
- xii. The investigator will send to each party and the party's Advisor, if any, the investigative report in an electronic format or a hard copy.
- xiii. Upon receipt of the investigative report, each party has 10 business days to submit a written response to the investigator.
- xiv. After receipt of the parties' responses to the investigative report, or expiration of the time permitted for such responses, the investigator will provide the following to the Title IX Coordinator and to the parties and their respective Advisors, if any the following:
 - xv. Written Notice described in Section IV, above, and any additional written notices;
 - xvi. Description of the procedural steps taken from the receipt of the Formal Complaint through the final investigative report and receipt of any responses to the final investigative report, including all notifications to the parties, interviews with the parties and witnesses, site visits, methods used to gather other evidence;
 - xvii. All evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint and any additional allegations of which the parties were provided written notice, including evidence upon which the investigator did not rely in forming an opinion, and any Inculpatory or Exculpatory evidence whether obtained from a party or other source;
 - xviii. The pre-hearing investigative report; and
 - xix. All written responses and any other submissions provided by the parties and their advisors to the investigator.
 - xx. Witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline.

Hearing.

- i.* After receipt of the information described above, in Section IV, the Title IX Coordinator will provide such information to the Hearing Panel and will work with the Hearing Panel, the parties, and their Advisors, to schedule a date, time, and location for a live Hearing.
- ii.* The Chair of the Hearing Panel may convene a pre-hearing conference with the parties and their Advisors to discuss matters of procedure, including logistics of technologies to be used; any requests for parties to be located in separate rooms; time allocations; identity and logistics of witnesses to be called; sequestration of witnesses; evidence to be presented; recording or transcription of the hearing; identity of support persons to be present; process for questions and cross-examinations; anticipated evidentiary disputes; the Rules of Decorum for Equal Opportunity & Title IX Hearings; and any other matters that will help to enable a fair and impartial hearing. Prior to the pre-hearing conference, the Chair of the Hearing Panel will request each party to submit a list of anticipated witnesses and cross-examination questions. The Chair of the Hearing Panel will discuss the party's submitted questions with the submitting party and their Advisor during the pre-hearing conference.
- iii.* The Chair of the Hearing Panel will conduct all proceedings in accordance with Rules of Decorum for Equal Opportunity & Title IX Hearings. For all hearings conducted under these Procedures, the Chair will make determinations regarding relevancy and will permit only relevant cross-examination and other questions to be asked of parties and witnesses.
- iv.* Each party will be afforded an opportunity to make an opening and closing statement, personally, or through their Advisor. Following any opening statements, the Hearing Officer will invite parties and witnesses to answer questions posed by the Hearing Panel.
- v.* For charges of Sexual Harassment, cross-examination will be conducted as follows, in accordance with federal requirements and Rules of Decorum for Equal Opportunity & Title IX Hearings:
 - a.* Before a Complainant, Respondent, or witness answers a cross-examination question, the Chair will first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
 - b.* 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.
 - c.* Asking a question of a particular individual previously asked of and answered by that individual is impermissible as irrelevant.

- d. If a party or witness does not submit to cross-examination at the Hearing, the Hearing Panel will not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Hearing panel 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.
 - e. Each party's Advisor will be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination will be conducted directly, orally, and in real time by the party's Advisor of choice and never by a party personally.
- vi. For Hearings involving only other charges of Prohibited Conduct and not Sexual Harassment, cross-examination will be conducted as follows, in accordance with the Rules of Decorum for Equal Opportunity & Title IX Hearings:
 - a. Cross-examination questions will be asked directly by the Chair of the Hearing Panel based on the questions submitted beforehand and discussed at the pre-hearing conference. Additional questions may be submitted to the Chair in writing during the hearing, which the Chair may ask of parties and witnesses.
- vii. If a party or witness does not attend the Hearing or refuses to answer a specific question at the Hearing, the Hearing Panel may elect to consider any other evidence made available to it during the hearing, including testimony offered by parties and witnesses present, and any documentation evidence included in the pre-hearing investigation report if authenticated by the Title IX Coordinator. The Hearing Panel 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.
- viii. Either party may request that the hearing occur with the parties located in separate rooms with technology enabling the Hearing Panel and parties to simultaneously see and hear the party or the witnesses answering questions.
- ix. The College will create an audio or audiovisual recording or transcript of the live hearing and will make it available to the parties for inspection or review. Other recordings or transcriptions of the hearing will not be permitted.
- x. Following conclusion of a Grievance Proceeding, the Hearing Chair will promptly issue a written determination on behalf of the Hearing Panel regarding responsibility. To reach this determination, the Hearing Panel will begin its analysis with the presumption that the Respondent(s) is not responsible for the alleged conduct and will weigh the evidence to determine whether the preponderance of the relevant evidence weighs in favor of a finding of responsibility or no finding of responsibility for the alleged Prohibited Conduct.
- xi. The written determination will be provided to the Complainant and Respondent as simultaneously as possible and will include the following:

- a. Identification of the allegations potentially constituting Prohibited Conduct;
 - b. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - c. Findings of fact supporting the determination;
 - d. Conclusions regarding the application of the Policy to the facts;
 - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the Respondent; and whether remedies designed to restore or preserve equal access to the College's Program or Activity will be provided by the College to the Complainant; and
 - f. The College's procedures and permissible bases for the Complainant and Respondent to appeal.
- xii.* The Chair of the Hearing Panel will provide to the Title IX Coordinator the final written decision, the recording or transcription of the live hearing, and all evidence directly related to the matter ("Hearing Panel File").

Appeal

Either or both parties may appeal from a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein.

- i.* An appeal must be submitted to the Title IX Coordinator within 10 business days of the date the written determination was submitted to the parties.
- ii.* Grounds for appeal must be stated in the notice of appeal. An appeal is limited to the following grounds:
- iii.* Procedural irregularity that affected the outcome of the matter;
- iv.* 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; and
- v.* The Title IX Coordinator, investigator(s), or member(s) of the Hearing Panel had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that specifically affected the outcome of the matter.
- vi.* Upon receipt of an appeal, the Title IX Coordinator will notify the other party in writing that an appeal was filed, provide a copy of the notice of appeal, and will issue instructions, including reasonable deadlines for the non-appealing party to submit a written response.
- vii.* Once the Title IX Coordinator has received the written statements or the deadlines for submission of the written statements has expired, the Title IX Coordinator will provide to the Vice President of Academic and Student Affairs, or their designee, written statements submitted by the parties and the Hearing Panel's final written decision and will make available the Hearing Panel File.

- viii.* The Vice President of Academic and Student Affairs will issue a written decision describing the result of the appeal and the rationale for the result and will provide the written decision simultaneously to both parties.
- ix.* The decision may be appealed to the President of the College. The appeal must be submitted to the Title IX Coordinator within 10 business days of the delivery of the appeal decision of the Vice President of Academic and Student Affairs.
- x.* A decision by the President is the final decision of the College and thus the conclusion of the grievance proceeding. As such, appropriate disciplinary sanctions may be immediately imposed.

Informal Resolution

1. At the discretion of the Title IX Coordinator, this process is available to resolve all allegations of Prohibited Conduct except Sexual Harassment by employees against students.
2. After the parties are provided with written notice of Formal Complaint, pursuant to Section III. of these procedures, the Title IX Coordinator may contact both parties to explore whether they would like to engage in an Informal Resolution Process.
3. The Title IX Coordinator is responsible for either overseeing or conducting the informal resolution process. Examples of Informal Resolution include mediation, facilitated conversation, and education.
4. Both parties must provide voluntary written consent to Informal Resolution, and the Title IX Coordinator must determine an Informal Resolution process is appropriate before the Title IX Coordinator will initiate an Informal Resolution process.
5. At any time, before completing a resolution, any party has the right to withdraw from the Informal Resolution Process and resume the Grievance Process with respect to the Formal Complaint.
6. A completed resolution must contain signatures of the parties and the Title IX Coordinator. The Title IX Coordinator retains the authority to determine whether any Informal Resolution is sufficient.
7. The only record resulting from the Informal Resolution process will be a Written Agreement of Informal Resolution signed by both parties and the Title IX Coordinator. Each party will receive a copy of the written agreement and the Title IX Coordinator will maintain a copy in the Title IX Office records.
8. None of the information learned solely as a result of the Informal Resolution process may be used in the Grievance Process. The fact that the parties participated or that any party declined to participate or withdrew from the Information Resolution Process may not be considered in a Formal Grievance Process.
9. The information learned in an Informal Resolution process may be used in a subsequent Grievance Process at the discretion of the Hearing Panel.

When a Complainant Does Not Wish to Proceed

If a complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether the College proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment. The Title IX Coordinator's decision should be based on results of the violence risk assessment that shows a compelling risk to health and/or safety that requires the College to pursue formal action to protect the community. "Compelling risk" includes but is not limited to evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the College's ability to pursue a Formal Grievance Process fairly and effectively. The College may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the College to honor that request, the College will offer informal resolution options, supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

Sanctions

1. Student Respondents. The Hearing Panel is responsible for determining sanctions against student respondents.
 - i. Possible sanctions against students may include one or more of the following:
 - a. Disciplinary probation: A designated period of time during which the respondent is not in good standing with the College. The terms of disciplinary probation may involve restrictions of privileges and/or set specific behavioral expectations;
 - b. Restriction from employment at the College: Prohibition of or limitation on College employment;
 - c. Class/Workshop/Training/Program attendance: Enrollment in and completion of a class, workshop, training, or program that could help the respondent or the College community;
 - d. Educational project: Completion of a project specifically designed to help the respondent understand why certain behavior was inappropriate and to prevent its recurrence;
 - e. College housing transfer or removal: Permanent placement in another room or housing unit or removal from College housing. Housing transfers or removals may be for a specified time (e.g., a year) or permanent depending on the circumstances;

- f. Removal from specific courses or activities: Suspension or transfer from courses or activities at the College for a specified period of time or permanently;
 - g. Banning from all or specific College activities and events: The College may prohibit an individual from attending College sponsored activities either on or off-campus;
 - h. Permanent No Contact: Restriction from entering specific College areas and/or from all forms of contact with certain persons;
 - i. Suspension: Separation from the College for a specified period of time or until certain conditions are met;
 - j. Expulsion or permanent separation: Termination of student status for an indefinite period for students or termination from employment for employees;
 - k. Transcript hold: The College may prevent a student from receiving a copy of their transcript; or
 - l. The College may delay the conferral of the degree pending the outcome of an investigation or withhold the conferral of the degree due to a finding of prohibited conduct. In extraordinary circumstances, the College may revoke the conferral of a degree.
- ii. Student Respondents may submit to the Hearing Panel a mitigation statement explaining any factors that the respondent believes should mitigate or otherwise be considered in determining the sanctions imposed. Complainants may submit to the Hearing Panel an impact statement describing the impact of the Prohibited Conduct on the complainant and expressing the complainant's preferences regarding appropriate sanctions.
 - iii. In determining the appropriate sanctions for students, the Hearing Panel will be guided by a number of considerations, including but not limited to:
 - a. The nature of the conduct at issue and the Prohibited Conduct for which Respondent was charged;
 - b. The impact of the Prohibited Conduct on the Complainant;
 - c. The impact of the Prohibited Conduct on the community or the College;
 - d. Whether the Respondent has accepted responsibility for the Prohibited Conduct, which may be considered as a factor that may lessen, not increase, the severity of the sanctions;
 - e. Maintenance of a safe and respectful environment conducive to learning;
 - f. Protection of the College community;

- g. The necessity of any specific action in order to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects on the Complainant or other College community members; and
 - h. Any other mitigating, aggravating, or compelling circumstances, including those set forth in the impact or mitigation statements.
- 2. Employee Sanctions. If the Respondent(s) is an employee, the Hearing Panel will not make a determination regarding sanctions. After any appeal or opportunity for appeal has been exhausted, the Title IX Coordinator will provide the Hearing Panel's written decision and any final decisions on appeal to the College President who has the authority to impose sanctions in accordance with applicable employment policies and procedures and collective bargaining agreements. The College President will consult with the Vice President of Human Resources. The Title IX Coordinator will inform the Complainant(s) of the status of the employee sanctioning process and outcomes as they directly relate to the Complainant(s)'s participation in College Programs or Activities or Residential Life.
- 3. Student-Employee Sanctions. If the Respondent is a student-employee, the Hearing Panel will determine sanctions with respect to the Respondent's status as a student and the Title IX Coordinator will provide the Hearing Panel's decision to the Vice President of Human Resources to impose sanctions in accordance with applicable employment policies and procedures.

Records

- 1. The Title IX Coordinator is responsible for maintaining for a period of seven years the following records:
 - i. Records of the Grievance Process following the filing of each Formal Complaint including:
 - a. Hearing Panel File;
 - b. Any disciplinary sanctions imposed upon the Respondent(s);
 - c. Any remedies provided to the Complainant(s) designed to restore or preserve equal access to the College's Programs or Activities;
 - d. Any documents submitted as part of an appeal and any written decisions as a result of an appeal;
 - e. Any written agreement of Informal Resolution.
 - ii. All materials used to train the Title IX Coordinator and any deputy Title IX Coordinators, investigators, the Hearing Panel, the President (or designee), all other decision-makers for appeals, and any person who facilitates an Informal Resolution Process. The Title IX Coordinator must make these training materials available on the College website.
 - iii. Records of all Reports of Prohibited Conduct including:
 - a. A record of the initial report;

- b. A record of any actions taken in response to a report of Prohibited Conduct;
 - c. A record of supportive measures provided to a Complainant, or if supportive measures are not provided to a Complainant, documentation of the reasons why such a response was not clearly unreasonable in light of the known circumstances;
 - d. Documentation of measures taken by the College to restore or preserve equal access to the College's Programs or Activities;
 - e. Documentation of the basis for the conclusion that the College's response was not deliberately indifferent to a report of Prohibited Conduct.
2. The College will keep confidential the identity of any individual who has made a report or filed a Formal Complaint of Prohibited Conduct, any Complainant, any Respondent, and any witnesses, except as may be permitted by the Family Education Right of Privacy Act ("FERPA"), 20 U.S.C. § 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, appeal, or judicial proceeding arising thereunder.

Timeframe

Consistent with timeframes identified herein and where otherwise unspecified, the College will respond to and seek resolution of all Reports of Prohibited Conduct and Formal Complaints under these Procedures, promptly, as determined by fact and circumstance, and in accordance with federal regulation. The Title IX Coordinator will set and provide advanced notice of timelines and deadlines to parties, witnesses, and Advisors.

Except as otherwise specified, the Title IX Coordinator may extend a deadline or permit delay of any resolution process described herein upon a showing of good cause and written notice to the parties of the reason for extension or delay. Good cause may include considerations such as the unavailability of a party, witness, or Advisor; concurrent law enforcement activity; or the need for language assistance or accommodation of disability.

The College will make a good faith effort to complete the process within 90 calendar days, including appeal, which may be extended as necessary for appropriate cause by a Title IX Coordinator, who will provide notice and rationale for any extension or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.