

## Title IX Non-Discrimination Policy

On May 6, 2020, The U.S. Department of Education announced new rules regarding the handling of Title IX matters by educational institutions. Helms College wants to assure its community members of our unwavering commitment to preventing and responding to sexual misconduct by any member of our community across all college locations, additional offsite classrooms, and experiential training venues. The College has updated its policy to be consistent with the new law and our commitment to Title IX as a means to creating a culture of belonging for all in our college community.

### Introduction

Title IX of the Education Amendments Act of 1972 prohibits discrimination on the basis of sex in any education program or activity operated by a recipient that receives federal financial assistance. As an educational College subject to Title IX, we have adopted this Title IX Non-Discrimination Policy (the "Policy"). As set forth in detail herein, the College:

- Does not discriminate on the basis of sex, including in admissions and employment, and is committed to providing an educational and workplace environment that is free from sex-based discrimination, harassment, and retaliation;
- Prohibits discrimination on the basis of sex in its educational programs and activities, as required by law;
- Is committed to promoting fairness and equity in all aspects its operations; and
- Values and promotes the equal dignity of all community members and is committed to the pursuit of just resolutions with respect to the rights of all parties involved.

This Policy is adopted to prevent discrimination prohibited under Title IX and provide a prompt, fair, and impartial process to address complaints of alleged discrimination based on sex. Inquiries about this Policy or the application of Title IX may be referred to the College's Title IX Coordinator, the Assistant Secretary of the Department of Education's Office for Civil Rights, or both.

Overview of Title IX Policy and Grievance Process: General Provisions Responsibilities of the Title IX Coordinator. The Title IX Coordinator oversees implementation and enforcement of this Policy, which includes primary responsibility for coordinating the College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

The College's Title IX Coordinator is identified below and may be contacted with questions about this Policy, to file a report or formal complaint, or to otherwise assist individuals in ensuring equal access to the College's educational programs or activities in compliance with Title IX.

Kathleen Vossenber, Director of Culinary Education, Title IX Coordinator, 3145 Washington Rd.  
Augusta, GA 30907, 706-854-4710 [kvossenber@helms.edu](mailto:kvossenber@helms.edu)

Individuals may also contact the U.S. Department of Education's Office for Civil Rights (see contact information below) with Title IX questions.

### How to Make a Report or Formal Complaint of an Alleged Title IX Violation:

Any person may report alleged sex discrimination, sexual harassment, or retaliation to the Title IX Coordinator, irrespective of whether the reporting person is the alleged victim of such conduct. A report is differentiated from a Formal Complaint ("Complaint"), which is a document filed/signed by the

Complainant or signed by the Title IX Coordinator alleging sexual harassment and requesting that the College investigate the allegation(s) and implement the College's Grievance Process. A report or complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail at any time. After Making a Report or Formal Complaint Upon receipt of a report or Complaint, the Title IX Coordinator shall undertake an initial assessment to determine appropriate next steps as required under this Policy, including making an initial threat assessment to ensure there is no immediate danger to Complainant or the College community and, if there is, to take appropriate action, which may include emergency removal of Respondent as described below.

The Coordinator shall contact Complainant to discuss the availability of appropriate supportive measures that may be implemented with input from the Complainant irrespective of, and in addition to, any resolution process including the formal Grievance Process, and will notify Complainant about the right to have an advisor.

If the report has been made without filing a Complaint, the Title IX Coordinator will review the allegations and discuss options with the Complainant, including the option of proceeding with a Complaint. If the Complainant does not want to proceed with a Complaint, the Coordinator may initiate a Complaint if the Coordinator determines that a Complaint is warranted.

If the Complainant files a Complaint, or the Title IX Coordinator initiates a Complaint, the matter will proceed as described under the Grievance Process.

After submission of a Complaint and after notifying the Respondent of the Complaint's allegations, the parties will be notified of the availability of informal resolution, as applicable. All parties must voluntarily consent in writing to any informal resolution process. The parties may withdraw such consent at any time and resume the formal Grievance Process.

At all stages of the process, irrespective of any resolution or grievance process which may be implemented, responsive and reasonable supportive measures will be implemented to ensure continued access to the College's educational program or activities.

#### Emergency Removal of Respondent

The College reserves the right to remove a Respondent from its education program or activities on an emergency basis when the Respondent poses an immediate threat to the health or safety of any student or College community member. The College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns.

#### Administrative Leave of Employee

Respondent Respondents that are College employees may be placed on administrative leave during the pendency of a grievance process as determined by the College and the Title IX Coordinator.

#### Complainant's Decision to Pursue a Complaint

If a Complainant does not wish to be identified, does not wish for an investigation to take place, or does not want a Complaint to be pursued, the Complainant may make such a request to the Title IX Coordinator, who will evaluate the request in light of the duty to ensure campus safety and compliance with state and federal law. The College will comply with Complainant's wishes unless the Coordinator determines that initiating a Complaint is warranted under the circumstances.

If the Coordinator independently initiates a Complaint, the Complainant may have as much or as little involvement in the process as the Complainant desires. The Complainant retains all rights of a Complainant under this Policy irrespective of participation level. Irrespective of whether a Complaint is filed, the College shall offer supportive measures to ensure Complainant's continued access to the College's educational program and activities. If the Complainant elects not to file a Complaint, the Complaint shall retain the right to file a Complaint later.

#### Complaint Dismissal

**Mandatory Dismissal:** The College must dismiss a Complaint if, at any time during the investigation or hearing, it is determined that:

1) The conduct alleged in the Complaint does not constitute sexual harassment as defined in under Title IX; and/or 2) The conduct did not occur in an educational program or activity controlled by the College (including buildings or property controlled by the College); and/or 3) The College does not have jurisdiction over the Respondent; and/or 4) The conduct did not occur against a person in the United States; and/or 5) At the time of filing a Complaint, the Complainant is not participating in or attempting to participate in the education program or activity of the College.

#### Discretionary Dismissal

The College may dismiss a formal complaint or any allegations therein if at any time during the investigation or hearing: 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Complaint or any allegation therein; or 2) The Respondent is no longer enrolled in, or employed by the College; or 3) Circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Complaint or allegations therein. Dismissed Complaints may include conduct that could be considered a potential violation of the College's Code of Conduct or Employee Handbook, and may be addressed through other applicable, non-Title IX conduct policies and procedures accordingly. Alternative Resolution After an initial assessment of the alleged facts, The Title IX Coordinator may, if both parties agree, begin an Alternative Resolution process.

Alternative Resolution may include, among other responses:

- Referral for disciplinary action;
- An agreement between the parties;
- Referring the Respondent to targeted preventive educational and training programs; and
- Conducting a follow-up review to ensure that the resolution has been carried out effectively.

Except for the limitations stated above, the Title IX Coordinator has sole discretion to determine whether the complaint is appropriate for Alternative Resolution, to determine the type of resolution to pursue, and to stop the process at any time before its conclusion and move to a Formal Investigation. Participation in Alternative Resolution is voluntary, meaning both the Reporting and the Responding Parties must mutually agree to participate. If Alternative Resolution is selected, the Title IX Coordinator will provide notice to both parties that:

- The Title IX Coordinator has begun the process;
- The process is voluntary and will end upon either party's request;
- Termination of Alternative Resolution may result in Formal Investigation;
- They may be accompanied by an advisor throughout the process; and The Title IX Coordinator will notify both parties of the process's outcome Conclusion of the Alternative Resolution process will

preclude the parties from resuming a formal complaint arising from the same allegations unless the parties failed to satisfy the terms of the agreement.

The Title IX Coordinator will conduct the Alternative Resolution process unless good cause requires another individual. The Title IX Coordinator will endeavor to complete the Alternative Resolution process promptly, typically within 60 business days of notifying the parties in writing of starting the process. However, the Title IX Coordinator may extend the Alternative Resolution process past 60 days for good cause. The Title IX Coordinator will notify the parties in writing of the reason for any extension and the projected new timeline. The actual time required will depend on the specific circumstances, including the complexity of the allegations and the nature of the alleged conduct.

Once the parties have agreed to the terms of an Alternative Resolution, the College will not conduct a formal investigation unless the Title IX Coordinator determines that the Respondent failed to satisfy the terms of the Alternative Resolution.

#### Consolidated Complaints

If a Complaint involves one or more Complaint, Complainant and/or Respondent and allegations arising out of the same set of circumstances, the College may elect to consolidate complaints.

#### Time Limits on Reporting

There is no time limitation on making a report or Complaint. However, acting on reports or Complaints is significantly impacted by the passage of time and occurrence of other events (including, but not limited to, the rescission or any revision of this Policy), and is at the discretion of the Title IX Coordinator, who may, among other things, document allegations for future reference, offer supportive measures and/or Remedies, and/or engage in informal or formal action, as appropriate. Additionally, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide Remedies may be more limited or impossible.

#### Anonymous Report or Complaint

If a Complainant makes a report anonymously, it will be investigated by the College to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or Remedies can be provided. Anonymous reports typically limit the College's ability to investigate and respond, depending on what information is shared. In some situations, the Title IX Coordinator may proceed with the issuance of a Formal Complaint even when the Complainant's report has been made anonymously.

#### Confidentiality

The College shall undertake reasonable efforts to preserve the confidentiality of reports and Complaints. The College shall not disclose any report or Complaint except as provided herein and as necessary to effectuate this Policy, or as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99, or as required under applicable law.

#### Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the College's education program or activity, including measures designed to protect the safety of all parties or the College's educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available upon receipt of a report or a complaint alleging possible sexual harassment. At the time that supportive measures are offered, the College will inform the Complainant, in writing, that they may file a formal complaint with the College either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are considered with respect to the supportive measures that are planned and implemented.

The College shall maintain the confidentiality of the supportive measures to the greatest extent reasonably practicable, provided that confidentiality does not impair the College's ability to provide supportive measures or otherwise fulfill its obligations under this Policy. The College will implement measures in a way that does not unreasonably burden the other party. Supportive measures may include, but are not limited to: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, referral to medical or healthcare services, referral to community-based services, campus security/escort services, mutual restrictions on contact between the parties, changes in work, leaves of absence, increased security and monitoring of certain areas of the College's property, and other similar measures.

#### Right to an Advisor

The parties have the right to select an advisor of their choice to accompany them to any or all meetings and interviews during the resolution process. There are no limits on who can serve as an advisor; it 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. Under Title IX, cross-examination is required during the hearing, and must be conducted by the parties' advisors. If a party selects an advisor of their choice, this advisor must perform cross-examination on their behalf during the hearing, as the parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an advisor, or the advisor does not appear for a hearing, the College will provide one for the limited purpose of conducting cross-examination on behalf of the party.

An advisor who is also a witness to the allegations in the complaint creates potential for bias and conflict-of-interest. A party who chooses an advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s) and may, but will not necessarily, impact the Final Determination.

The College cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not select or retain an attorney or cannot afford an attorney, the College is not obligated to provide the other party with an attorney.

#### Conflict-of-Interest & Bias

Title IX Personnel are trained to ensure they have no conflict of interest and are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

#### Retaliation

The College prohibits retaliation under this Policy. Retaliation may include intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and procedure. Alleged retaliation should be reported immediately to the Title

IX Coordinator and will be promptly investigated. The College will take appropriate action to protect individuals who fear that they may be subjected to retaliation.

#### Mandatory Reporters

We have identified mandated reporters who are required under the College's policy to report known or suspected discrimination to the Title IX Coordinator. All faculty and staff are mandated reporters. In these cases, after receiving a report, the College will act to stop, remedy and prevent future recurrence of prohibited conduct through the application of this Policy.

#### Notice, Dissemination and Publication of Policy

Title IX requires the College to notify applicants for admission or employment as well as students, employees, and, if applicable, unions or professional organizations holding collective bargaining of collective agreements with this Policy. We comply with Title IX's notice requirements, including prominently publishing its Non-Discrimination & Grievance Process Policy and contact information for the Title IX Coordinator on our website and in other publications.

#### Sexual Harassment Defined, Jurisdiction & Scope of Policy Sexual Harassment Defined

For purposes of this Policy and the grievance process, Sexual Harassment has the meaning set forth below. Sexual Harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, gender and/or gender identity of those involved.

Sexual Harassment means: Conduct on the basis of sex that satisfies one or more of the following:

- 1) Quid Pro Quo: A College employee, conditions the provision of an aid, benefit, or service of the College, on an individual's participation in unwelcome sexual conduct; and/or
- 2) Sexual Harassment: Unwelcome conduct, determined by a reasonable person, to be so severe, and pervasive, and, objectively offensive, that it effectively denies a person equal access to the College's education program or activity.
- 3) Sexual assault, defined as: Any sexual act directed against another person, without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent.
- 4) Dating Violence, defined as: a. violence, on the basis of sex, committed by a person, b. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
- 5) Domestic Violence, defined as: a. violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant
- 6) Stalking, defined as: a. engaging in a course of conduct, on the basis of sex, b. directed at a specific person, that would cause a reasonable person to fear for the person's safety, or the safety of others; or suffer substantial emotional distress. For the purposes of this definition—  
(i) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

Force, Coercion, Consent, and Incapacitation as used in the offenses above, the following definitions and meanings apply:

Force: 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.

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Consent: Consent is knowing permission to engage in sexual activity that is voluntarily given through clear verbal communication or by unambiguous behavior.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the College to determine whether this Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Jurisdiction of the College If the Respondent is unknown or is not a member of the College community, the Title IX Coordinator will assist the Complainant as requested in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement to file a police report upon request.

Further, even when the Respondent is not a member of the College's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator. In addition, the College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from College property and/or events.

#### Scope of the College's Educational Program and Activities

For purposes of this Policy, the College's educational program or activities includes locations, events, or circumstances, within the U.S., where the College exercises substantial control over both the Respondent and the context in which the alleged sexual harassment or discrimination occurs and also includes any building owned or controlled by the College or Goodwill of Middle Georgia and the CSRA.

#### Formal Grievance Process

If a Formal Complaint is filed, and not address through the informal resolution process, the matter will proceed through the Grievance Process as outlined below and will include an objective investigation, live hearing with opportunity for cross-examination and the right to appeal. This process will treat complainants and Respondents equitably. Any provisions, rule or practice adopted by the College as part of the grievance process, other than those required under Title IX and its implementing regulations will apply equally to both parties. The process will include an objective evaluation of all relevant evidence (inculpatory and exculpatory), will be conducted by trained Title IX Personnel, free from any known conflict of interest or bias, and presumes Respondent's non-responsibility until and unless demonstrated otherwise by the evidence and after a Final Determination as been rendered.

The Title IX Coordinator will provide written notice of the allegations to the Respondent and Complainant upon receipt of a Formal Complaint. Disciplinary sanctions or punitive measures will not be

imposed against a Respondent unless and until there has been a finding of responsibility after application of the process. If at any stage of the investigation it is determined that conditions exist warranting dismissal, the complaint will be dismissed. Complainant will continue to be entitled to appropriate supportive measures in such cases.

Investigators will be assigned to investigate allegations contained in a formal complaint and will do so objectively. The burden to collect all evidence related to the allegations, including both inculpatory and exculpatory, rests on the College, and not on the parties. Investigators must be free from bias and conflicts of interest. Depending on the complexity of the case, more than one Investigator may be assigned.

#### Investigation Timeline

The College will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation. The College may undertake a reasonable delay in its investigation under appropriate circumstances. Such circumstances include, but are not limited to, a concurrent law enforcement investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions. The College will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates as warranted. The College will promptly resume its investigation and resolution process as soon as feasible. During such a delay, the College will implement supportive measures as deemed appropriate.

The College's grievance process is an administrative procedure required under Title IX to address sexual discrimination, and therefore is separate and independent of any law enforcement investigation or criminal proceedings.

The Investigation Process Investigators serve free from conflict of interest, objectively and without bias. All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses and obtaining available, relevant evidence. The College, not the parties, bears the burden of gathering evidence and burden of proof. Parties have equal opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The investigation will be conducted within a reasonably prompt timeframe, allowing for thorough collection and evaluation of all evidence related to the allegations. The investigator will keep the parties informed as to estimated timelines, and any delays.

Prior to the conclusion of the investigation, the parties will be provided with an electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the allegations in the Formal Complaint, whether or not it will be used in reaching a determination. The parties will have a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The Investigator will incorporate any relevant feedback provided by the parties during the review process, and the final report is then shared with all parties and their advisors through electronic transmission or hard copy at least ten (10) business days prior to a hearing.



### Role and Participation of Witnesses in the Investigation

Witnesses who are College employees are expected to cooperate with and participate in the College's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a Policy violation and may warrant discipline.

Interviews may occur in-person or remotely. Lifesize, Skype, Zoom, FaceTime, or similar technologies may be used. The College will take appropriate steps to reasonably ensure the security/privacy of remote interviews. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

### Evidentiary Considerations in the Investigation

The investigation includes collection of all evidence directly related to the allegations, which is not otherwise privileged. Only evidence which is also deemed relevant is summarized in the investigative report which is considered by the Decision-Maker(s), in rendering a determination of responsibility. All parties are provided the opportunity to review all non-privileged evidence gathered during the investigation which is directly related to the allegations in the complaint, whether or not it is also included in the investigative report.

Relevant evidence does not include evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such evidence is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the evidence concerns specific incidents of the Complainant's prior sexual behavior with respect to the Respondent, and are offered to prove consent. Privileged evidence is likewise excluded from both the investigation, investigative report and hearing unless a party expressly waives this privilege in writing and consents to the release of this information during the grievance process.

### Investigative Report

Upon conclusion of the investigation, the Investigator will create an investigative report that fairly summarizes relevant evidence and, at least five (5) days prior to a hearing, will send the report to each party and the party's advisor, if any, the investigative report in an electronic format or hard copy, for their review and written response.

The Hearing Upon conclusion of the investigation and distribution of the investigative report to the parties, the matter will proceed to the hearing stage of the grievance process. The hearing will be offered live, in real-time and will include cross-examination. A Decision-maker(s) will be appointed to preside over the hearing, evaluate the evidence and make a determination as to each allegation in the complaint. The Decision-maker will be independent and neutral, and will not have had any previous involvement with the investigation. Investigators, Title IX Coordinator (or designee) or advisors are prohibited from serving as Decision-makers.

The College reserves the right to adopt any hearing protocols, which will be applied and be made available equally to both parties, to ensure the efficiency, order and decorum of the hearing process. The College may designate an administrative facilitator of the hearing, which may include the Title IX Coordinator, as long as they do not have a conflict of interest.

The College may conduct the hearing virtually at their discretion or upon request of a party. Request for remote participation by any party or witness should be directed to the Title IX Coordinator made at least ten business days prior to the hearing.

The Decision-maker may question the parties and any witness at the hearing.

Only relevant questions, testimony and evidence may be proffered at the hearing, and the Decision-maker will make determinations as to relevancy of every question posed by an advisor during cross-examination before it is answered, and of any evidence offered.

Privileged evidence or testimony, likewise, may not be proffered during the hearing, without a party's waiver and written consent allowing its consideration at the hearing.

Parties may not conduct cross-examination. Advisors only will conduct cross-exam on a party's behalf. Only relevant questions will be allowed.

Parties, advisors, witnesses, and all participating individuals are expected to behave respectfully during the hearing. Harassing, intimidating or disruptive behavior will not be tolerated, and the College reserves the right to exclude anyone from participation in the process that fails to comport themselves accordingly.

#### Evidentiary Considerations in the Hearing

Only Relevant Evidence Allowed Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. Only evidence, which is directly related to the allegations, not subject to an enforceable legal privilege and not otherwise excludable as described here is considered relevant.

The hearing does not consider the following which are deemed not relevant: 1) incidents not directly related to the possible violation, unless they evidence a pattern; or 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, 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 3) 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.

#### Privileged Evidence

Must be Excluded Evidence subject to any recognized legal privilege will not be allowed in the hearing without the prior written waiver of the privilege and consent for its consideration during the grievance process.

#### When a Party/Witness Refuses to Submit to Cross-Examination

If a party or witness does not attend, or chooses not to submit to cross-examination at the hearing, the Decision-maker may not rely on any prior statement made by that party or witness in the ultimate determination of responsibility. The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

#### Final Determination as to Responsibility and Standards of Proof

Upon completion of the hearing, the Decision-maker will deliberate privately and will render a finding as to each allegation in the complaint by applying the clear and convincing evidence standard. The decision will be provided simultaneously to the parties through the issuance of a written determination letter, delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official the College records, or emailed to the parties' the College-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice

will be presumptively delivered. The determination regarding responsibility becomes final after expiration or exhaustion of any appeal rights.

#### Sanctions, Disciplinary Action & Remedies

The College may consider a number of factors when determining a sanction and/or remedy and will focus primarily on actions aimed at ending, and preventing the recurrence of, discrimination, harassment, and/or retaliation and the need to remedy the effects its effects on the Complainant and campus community. Sanctions will be imposed upon either expiration of the appeal window, or after Final Determination on any appeal filed.

Sanctions or actions may include, but are not limited to, those listed below. These may be applied individually or in combination and the College may assign sanctions not listed, as deemed appropriate.

#### Student Sanctions

**Warning:** A formal statement that the conduct was unacceptable and a warning that further violation of any College policy, procedure, or directive will result in more severe sanctions/responsive actions.

**Required Counseling:** A mandate to meet with and engage in either College-sponsored or external counseling to better comprehend the misconduct and its effects.

**Probation:** A written reprimand for violation of College policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any College policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.

**Suspension:** Termination of student status for a definite period of time not to exceed two years (full length of the College's longest academic program) and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at the College.

**Expulsion:** Permanent termination of student status and revocation of rights to be on campus for any reason or to attend College-sponsored events.

**Withholding Diploma:** The College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.

#### Employee Sanctions/Actions:

- Warning – Verbal or Written Performance Improvement/Management Process
- Required Counseling
- Required Training or Education Probation
- Loss of Annual Pay Increase
- Loss of Oversight or Supervisory Responsibility Demotion
- Suspension with pay, Suspension without pay, or Termination
- Other Actions: In addition to, or in place of the above sanctions, the College may impose any other sanction as deemed appropriate.

### False Allegations and Evidence

Making deliberately false and/or malicious accusations, knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation are policy violations subject to discipline.

### Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions imposed, the Title IX Coordinator may implement additional long-term Remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

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

- Referral to counseling and health services
- Alternation of housing assignments
- Alteration of work arrangements for employees
- Provision of campus safety escorts
- Implementation of long-term contact limitations between the parties
- Adjustments to academic deadlines, course schedules, etc.
- Modified campus security measures

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no Policy violation is found. The College will maintain the privacy of any long-term Remedies, provided privacy does not impair the College's ability to provide these services.

### Failure to Comply with Disciplinary Sanctions or other Remedies

Respondents are expected to comply with any disciplinary sanction or remedy as set forth in the Final Determination or in response to a final outcome. Failure to abide by the sanction(s)/action(s) whether by refusal, neglect, or any other reason, may result in additional disciplinary action, including suspension, and/or expulsion.

### Appeals

Any party may file an Appeal on the following grounds: Appeals must be submitted in writing to the Title IX Coordinator within three days of the delivery of the Notice of Outcome. After expiration of the appeal window, the determination will be considered final, and any applicable sanctions will be imposed.

Grounds for Appeal Appeals may be made on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. 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
3. 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 specific Complainant or Respondent that affected the outcome of the matter. Any sanctions imposed as a result of the Final Determination are stayed during the appeal process. Title IX personnel with prior involvement in the matter will not be permitted to serve as a Decision maker in the appeal.

Appeals will not include a hearing. A decision on the merits will be based on information provided in the appeal document. If an appeal is based on the availability of new evidence, this evidence must be

described with specificity and must be available for review within a reasonably prompt timeframe for consideration. The appeal outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, and the rationale supporting the findings. Appeal decisions will be made within seven business days, barring exigent circumstances, including the review of new evidence not immediately available for submission with the appeal request. Notification of the appeal outcome will be made in writing and will be delivered simultaneously to the parties by one or more of the following methods: in person or mailed to the local or permanent address of the parties as indicated in official College records. Once mailed, and/or received in-person, notice will be presumptively delivered. Decisions on appeal are considered final.

#### Record Retention

The College shall maintain records related to the implementation of this Policy for at least seven years.

#### Revision of this Policy

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation under Title IX and will be reviewed and updated subject to any relevant change in law or College policy, and on a recurring periodic basis, by the Title IX Coordinator. The College reserves the right to make changes to this Policy as necessary, which become effective when published.

This Policy will not restrict any rights guaranteed against government action by the U.S. Constitution and should be interpreted accordingly and should also be construed to comply with the most recent government regulations or applicable judicial decisions. This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

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Contact the OCR headquarters office if you have a question on national policy, to make a Freedom of Information request for information that is national in scope, or to request publications or other assistance that is not available online.

Amended 8/14/2020