

Pennsylvania College of Technology

Procedure Statement

Title: Sexual Misconduct/Sexual Harassment

Number: PR 7.30

Approved by:
Presidential Action

Approved Date: 09/2017
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Last Revision Date: 07/2024

Persons/Departments Affected:

All Penn College Students, Employees, Visitors, Guests, and Campers under 18

Responsible Department:

Academic Affairs and People & Culture

Definitions:

Advisor means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process.

Appeals Officer means a person designated from the Title IX Team to hear any appeals from a determination.

Complainant means an individual, including a parent/guardian of an individual under the age of 18, who is alleged to be the victim of conduct that could constitute sexual misconduct/sexual harassment; or retaliation for engaging in a protected activity.

Complaint means a report submitted by a Complainant alleging sexual misconduct/sexual harassment or retaliation for engaging in a protected activity against a Respondent and requesting that the College investigate the allegation.

Confidential Resource means an employee who is not a Mandatory or Discretionary Reporter of notice of sexual misconduct/sexual harassment (irrespective of Clery Act Campus Security Authority status).

Day means a business day when the College is in normal operation.

Discretionary Reporter is every employee of the College who is not considered a Confidential Resource or Mandatory Reporter and is required to share reporting and supportive resource information, including the Title IX Coordinators contact information, to any person who shares a complaint.

Education program or activity means locations, events, or circumstances where Penn College exercises substantial control over both the Respondent and the context in which the sexual misconduct/sexual harassment occurs.

Final Determination: A conclusion by preponderance of the evidence (more likely than not) that the alleged conduct did or did not violate policy.

Finding: A conclusion by preponderance of the evidence (more likely than not) that the conduct did or did not occur as alleged (as in a “finding of fact”).

Formal Resolution Process means a method of investigation and resolution designated by the College to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations.

Informal Resolution Process is a voluntary, structured agreement between parties involved in allegations of sexual misconduct or harassment to resolve the allegations as an alternative to a formal resolution.

Interim Removal is the removal of a student from programs or activities on an emergency basis after conducting a safety and risk assessment if it is determined the Respondent may pose a threat to the health or safety of any student or individual.

Investigator means the person or persons charged by Penn College with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report.

Mandatory Reporter means an employee of the College who is obligated by policy to share knowledge, notice, and/or reports of sexual misconduct/sexual harassment with the Title IX Coordinator and/or their supervisor.

Notice means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.

Official with Authority (OWA) means an employee of the College explicitly vested with the responsibility to implement corrective measures for sexual misconduct/sexual harassment on behalf of the College.

Parties include the Complainant(s) and Respondent(s), collectively.

Pattern Behavior is an intentional series of actions that together equate to sexual harassment such as multiple incidents over time, actions that show progression, or behavior that is intimidating or coercive.

Policy means the Sexual Misconduct/Sexual Harassment Policy.

Procedure means the Sexual Misconduct/Sexual Harassment Procedure.

Outcomes are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the College's educational program

Recipient means a postsecondary education program that is a recipient of federal funding.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual misconduct/sexual harassment; or retaliation for engaging in a protected activity.

Resolution means the result of an informal or Formal Resolution Process.

Risk Assessment refers to an individualized process, conducted by a trained member of the Title IX Team, to determine if a Respondent poses an immediate threat to the health or safety of the Complainant, a Witness, or the College community in general arising from the allegation of sexual misconduct/sexual harassment that could result in the Interim Removal of the Respondent.

Sanction means a consequence imposed by the College on a Respondent who is found to have violated this policy.

Sexual Harassment is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence.

Sexual Misconduct Hearing Panel refers to those who have decision-making and sanctioning authority within the College's Formal Resolution Process.

Supportive Measures are non-disciplinary, non-punitive, individualized services provided to students and employees to ensure equal access to educational programs and activities.

Title IX Coordinator is at least one official designated by the College to ensure compliance with Title IX and the College's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

Title IX Team refers to the Title IX Coordinator, any deputy coordinators, investigators, advisors, any member of the Sexual Misconduct Review Panel, or Appeals Officer.

Procedure:

I. Overview

- a. Penn College will act on any formal or informal notice/complaint of violation of the Sexual Misconduct/Sexual Harassment Policy that is received by the Title IX Coordinator or any other Official with Authority by applying these procedures.
- b. The procedures below apply to qualifying allegations of sexual misconduct/sexual harassment as outlined in the Sexual Misconduct/Sexual Harassment Policy (including sexual assault, dating violence, domestic violence, and stalking) involving students, staff, administrators, or faculty members.
- c. The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Sexual Misconduct/Sexual Harassment Policy will be addressed through procedures described in the appropriate College Policy and Procedure.

II. Notice/Complaint

- a. Upon receipt of a report or knowledge of an alleged Policy violation the Title IX Coordinator will initiate a prompt initial assessment to determine the next steps.
- b. The Title IX Coordinator will initiate at least one of three responses:
 - i. Offering supportive measures because the Complainant does not want to file a formal complaint; and/or
 - ii. An informal resolution; and/or
 - iii. A Formal Process including an investigation and a hearing.
- c. The College uses the Formal Process to determine whether or not the Policy has been violated. If so, the College will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to sexual misconduct/sexual harassment, their potential recurrence, or their effects.

III. Initial Assessment

- a. Following receipt of a report of an alleged violation of this Policy, the Title IX Coordinator engages in an initial assessment, within seven business days. The Title IX Coordinator or Deputy Coordinator will:
 - i. Assess whether the reported conduct may reasonably constitute a policy violation.
 - ii. Determine if the College has jurisdiction over the reported conduct as defined by the policy.
 - iii. Notify the complainant of the resolution processes, including supportive measures.
 - iv. Notify the respondent of the resolution process, including supportive measures.
 - v. Offer and coordinate interim supportive measures for the

Complainant.

- vi. offer and coordinate interim supportive measures for the Respondent, as applicable.
- vii. Risk Assessment
 - 1. In many cases, the Title IX Coordinator may determine that a Risk assessment should be conducted by trained members of the Title IX Team as part of the initial assessment. A risk assessment can aid in critical and/or required determinations, including:
 - a. Interim Removal of a Respondent on the basis of immediate threat to health/safety;
 - b. Whether the Title IX Coordinator should pursue a report absent a willing/able Complainant;
 - c. Whether base the investigation on the incident, pattern, climate, or a combination thereof;
 - d. To help identify potential predatory conduct;
 - e. To help assess/identify grooming behaviors;
 - f. Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
 - g. Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
 - h. Whether a Clery Act Timely Warning/No Contact Order//Persona-non-grata is needed.

IV. Dismissal

- a. The College may dismiss a complaint if, at any time during the investigation or Resolution Process, it is determined that:
 - i. The College is unable to identify the Respondent after taking reasonable steps to do so.
 - ii. The College no longer enrolls or employs the Respondent.
 - iii. The Complainant voluntarily withdraws any or all of the allegations in the Complaint and the College declines to initiate a Complaint.
 - iv. The College determines the conduct alleged would not constitute a Policy violation, if proven.
 - v. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the complaint; or
 - vi. The Respondent is no longer enrolled in or employed by the College; or
 - vii. Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the complaint or allegations therein.
- b. Upon any dismissal, the College will promptly send written notice of the dismissal and the rationale for doing so.

V. Appeal of Dismissal

- a. The Complainant or Respondent may appeal the dismissal of their complaint.
 - i. All dismissal appeals must be filed within three business days of the notification of dismissal.
- b. Throughout the dismissal appeal process, the College will:
 - i. Implement dismissal appeal procedures equally for both parties;
 - ii. Assign a Dismissal Appeal Officer who did not take part in an investigation of the allegations or dismissal of the Complaint;
 - iii. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal; and
 - iv. Notify the parties of the result of the appeal and the rationale for the result.
- c. Grounds for dismissal appeals are limited to:
 - i. Procedural irregularity that would change the outcome;
 - ii. New evidence that would change the outcome and that was not reasonably available when the dismissal was decided;
 - iii. A Party involved in the investigation, hearing, or decision had a conflict of interest or bias for or against the complainants or respondents that would change the outcome.
 - iv. The dismissal was erroneously granted or denied.

VI. Interim Removal

- a. Based on the utilization of a risk assessment, the College may interimly remove a student or employee if it is determined that the individual may pose a serious threat to the health and safety of members of the College community.
 - i. The affected individual will be notified of the action, including a written rationale, and the option to challenge the removal.
 - ii. The Title IX Coordinator will meet with the individual and their Advisor if desired, as soon as reasonable possible to allow them to show cause why the removal should not be implemented or modified.
 1. This is not a hearing on the merits of the allegations, but an administrative process intended to determine if the interim removal should be lifted or modified.

VII. Counterclaims

- a. The College is obligated to ensure that the grievance process is not abused for retaliatory purposes. The College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims made with retaliatory intent will not be permitted.
- b. Counterclaims determined to have been reported in good faith will be processed using the resolution procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.
- c. Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory

and may constitute a violation of this policy.

VIII. **Right to an Advisor**

- a. The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the resolution process, as long as, the Advisor is eligible and available.
 - i. The parties are permitted one Advisor but can request additional Advisors through the Title IX Coordinator. If one party is allowed more than one Advisor, then the other party may also have the same number of Advisors.
 - ii. Witnesses are not entitled to Advisors within the process, though they can be advised externally.
- b. Choosing an Advisor who is also a witness in the process 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 Sexual Misconduct Hearing Panel.
- c. **Who Can Serve as an Advisor**
 - i. The Advisor may be a friend, mentor, family member, attorney, advocate, 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 of the College community.
 - ii. The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the Title IX Team available from the College, the Advisor will be trained by the College and be familiar with the College's resolution process.
 - iii. The College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the College is not obligated to provide an attorney.
 - iv. Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.
- d. **Advisor's Role in Meetings, Interviews, and Hearings**
 - i. The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.
 - ii. Advisors are not allowed to speak on behalf of the Party. The Party may consult with the Advisor before responding but must answer on their own behalf.
 - iii. During a hearing the Party may consult with the Advisor on questions for the other party. Those questions will be passed from the Party to the Hearing Facilitator. Neither the Party or Advisor will directly question the other Party.

- e. Advisor Violations of College Policy
 - i. All Advisors are subject to the same College policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address College officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Sexual Misconduct Review Panel except during a hearing proceeding, during cross-examination.
 - ii. The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.
 - iii. Any Advisor who oversteps their role as defined by this Procedure will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented as determined by the Title IX Coordinator. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.
- f. Sharing Information with the Advisor
 - i. The College expects that the parties may wish to have the College share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.
 - ii. The College will share such information directly with their Advisor at the Parties request. The parties must submit the request in writing or by email to the Title IX Coordinator demonstrating consent to a release of information to the Advisor before the College is able to share records with an Advisor.
 - iii. If a party requests that all communication be made through their attorney Advisor, the College will not comply with that request.
- g. Privacy of Records Shared with Advisor
 - i. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.
- h. Expectations of an Advisor

- i. The College generally expects an Advisor to adjust their schedule to allow them to attend College meetings when planned, but may change scheduled meetings and hearings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.
 - ii. The College may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.
- i. Expectations of the Parties with Respect to Advisors
- i. A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).
 - ii. The parties are expected to provide notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

IX. Resolution Processes

- a. Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with College policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose related to Informal Resolution, discussed below. Penn College encourages parties to discuss any sharing of information with their Advisors before doing so. The College offers four categories of Informal Resolution and may combine them as needed.
- i. The Categories of Informal Resolution:
 - 1. Supportive Resolution – when the College can resolve the matter informally by providing supportive measures designated to remedy the situation.
 - 2. Educational Conversation – when the College can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations or can accompany the Complainant in their desire to confront the conduct.
 - 3. Accepted Responsibility – when the Respondent is willing to accept responsibility for violating Policy and is willing to agree to actions that will be enforced similarly to sanctions,

and the Complainant and College are agreeable to the resolution terms.

4. Alternative Resolution – when the Parties agree to resolve the matter through an alternative resolution mechanism such as mediation, negotiation, restorative practices, facilitated dialogue, etc.)

X. Resolution Process Members

- a. The Resolution Process relies on a pool of administrators (the Title IX Team) to carry out the process. Members of the Title IX Team are announced in an annual distribution of this policy to all students, parents/guardians of students, employees, prospective students, and prospective employees.
- b. Title IX Team Member Roles
 - i. Members of the Title IX Team are trained annually, and can serve in in the following roles, at the direction of the Title IX Coordinator:
 1. To provide appropriate intake of and initial guidance pertaining to complaints
 2. To act as an Advisor to the parties
 3. To facilitate Informal Resolution
 4. To perform or assist with initial assessment
 5. To investigate complaints
 6. To serve as a hearing facilitator
 7. To serve as a decision maker for challenges to interim removal and supportive measures
 8. To serve as a decision maker
 - ii. Title IX Team Member Appointment
 1. The Title IX Coordinator, in consultation with the President, appoints the Title IX Team, which acts with independence and impartiality.
 2. Although members of the Title IX Team are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases, the College can also designate permanent roles for individuals in the Title IX Team, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Title IX Team that make them best suited to particular roles.
 - iii. Title IX Team Member Training
 1. The Title IX Team members receive annual training.
 2. Specific training is also provided for Appeals Officers, Investigators, Advisors (who are College employees), and Sexual Misconduct Hearing Panel members. All Title IX Team members are required to attend these trainings annually. The materials used to train all members of the Title IX Team are publicly posted on the Sexual Misconduct website at

www.pct.edu/sexualmisconduct.

3. Title IX Team Membership
 - a. The Title IX Team includes members of the College staff including, but not limited to, representation from Student Affairs, Academic Affairs, Enrollment Management, and Human Resources.

XI. Notice of Investigation and Allegations

- a. The Title IX Coordinator will provide written notice of the investigation and allegations to the Respondent upon commencement of the Resolution Process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The notice of the investigation and allegations is also copied to the Complainant, who is to be given advance notice of when the notice of the investigation and allegations will be delivered to the Respondent.
- b. Amendments and updates to the notice of the investigation and allegations may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.
- c. Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official College records, or emailed to the parties' Penn College email accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

XII. Resolution Timeline

- a. The College will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

XIII. Appointment of Investigators

- a. Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints Title IX Team members to conduct the investigation (typically using a team of two Investigators), usually within two (2) business days of determining that an investigation should proceed.

XIV. Ensuring Impartiality

- a. Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator, Investigator(s), and Sexual Misconduct Hearing Panel members, may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.
- b. The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or

disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Title IX Team member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the President.

- c. The Resolution Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.
- d. The College operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

XV. Delays in the Investigation Process and Interactions with Law Enforcement

- a. The College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, accommodations for disabilities or health conditions, and/or the College's academic schedule.
- b. The College will communicate in writing the anticipated duration of the delay and reason to the parties, and provide the parties with status updates if necessary. The College will promptly resume its investigation and resolution process as soon as feasible. During such a delay, Penn College will implement supportive measures as deemed appropriate.
- c. College action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

XVI. Steps in the Investigation Process

- a. All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.
- b. All parties have a full and fair 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.
- c. The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):
 - i. Determine the identity and contact information of the Complainant
 - ii. In coordination with campus partners (e.g., the Title IX Coordinator),

- initiate or assist with any necessary supportive measures
- iii. Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- iv. Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
- v. Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- vi. Meet with the Complainant to finalize their interview/statement, if necessary
- vii. Prepare the initial Notice of Investigation and Allegation. The notice of the investigation and allegations may be amended with any additional or dismissed allegations
- viii. Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party
- ix. Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
- x. Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- xi. When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- xii. Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- xiii. Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
- xiv. Complete the investigation promptly and without unreasonable deviation from the intended timeline
- xv. Provide regular status updates to the parties throughout the investigation
- xvi. Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- xvii. Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- xviii. Prior to the conclusion of the investigation, provide the parties and

their respective Advisors (if so desired by the parties) a secured 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 reported misconduct, including evidence upon which the College does not intend to rely in reaching a determination, review and comment so that each party may meaningfully respond to the evidence.

- xix. The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- xx. The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period
- xxi. The Investigator(s) shares the report with the Title IX Coordinator and/or legal counsel for their review and feedback
- xxii. The Investigator(s) will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report

XVII. Role and Participation of Witnesses in the Investigation

- a. Witnesses (as distinguished from the parties) who are employees of the College 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 violation of policy and may warrant discipline.
- b. Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Teams, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

XVIII. Recording of Interviews

- a. No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of, and consent to, audio and/or video recording.

XIX. Evidentiary Considerations in the Investigation

- a. The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the

parties; or 3) 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 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.

XX. Referral for Hearing

- a. Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing to be completed in a timely manner.

XXI. Sexual Misconduct Hearing Panel Composition

- a. The College will designate a three-member Panel from the Title IX Team, at the discretion of the Title IX Coordinator. The Title IX Coordinator will facilitate the Hearing Panel.
- b. The Panel members will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Title IX Team sit in throughout the hearing process in the event that a substitute is needed for any reason.
- c. Those who have served as Investigators will be witnesses in the hearing and therefore may not serve on the Panel. Those who are serving as Advisors for any party may not serve on the Panel in that matter.

XXII. Evidentiary Considerations in the Hearing

- a. Any evidence that the Facilitator determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) 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 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.
- b. Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process, and is not shared until then.
- c. The parties may each submit a written impact statement prior to the hearing for the consideration of the Chair at the sanction stage of the process when a determination of responsibility is reached.
- d. After post-hearing deliberation, the Panel renders a determination based on

the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

XXIII. Notice of Hearing

- a. The Title IX Coordinator will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.
- b. Hearings for possible violations that occur near or after the end of an academic semester (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer.
- c. In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal).
- d. A student facing charges under this Policy is not in good standing with the College.

XXIV. Hearing Procedures

- a. At the hearing, the Panel has the authority to hear and make determinations on all allegations of sexual misconduct/sexual harassment and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the sexual misconduct/sexual harassment, even though those collateral allegations may not specifically fall within this Policy and Procedure.
- b. Participants at the hearing will include the Title IX Coordinator who facilitates the hearing, a Hearing Panel composed of 3 members of the Title IX Team, the Investigator(s) who conducted the investigation, the Parties, Advisors to the Parties, any called witnesses, and anyone providing authorized accommodations or assistive services.
- c. The Title IX Coordinator will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.
- d. The Title IX Coordinator will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Sexual Misconduct Hearing Panel and the parties and the witnesses will then be excused.

XXV. Joint Hearings

- a. In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.
- b. However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged

policy violation.

XXVI. The Order of the Hearing – Introductions and Explanation of Procedure

- a. The Title IX Coordinator explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of Panel members on the basis of bias or conflict of interest. The Title IX Coordinator will rule on any such challenge unless the Title IX Coordinator is the individual who is the subject of the challenge, in which case the hearing panel will review and decide the challenge.
- b. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by the Title IX Coordinator. The Title IX Coordinator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.
- c. The Title IX Coordinator then conducts the hearing according to the standard process.

XXVII. Investigator Presents the Final Investigation Report

- a. The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Panel and the parties (through the panel). The Investigator(s) will only be present to share their summary.
- b. Neither the parties nor the Panel should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Title IX Coordinator will direct that it be disregarded.

XXVIII. Testimony and Questioning

- a. Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Title IX Coordinator. The parties/witnesses will submit to questioning by the Panel and then by the parties through the Panel (“cross-examination”).
- b. All questions are subject to a relevance determination by the Panel. The Parties will submit their questions in a written or electronic format to the Panel, who will pose the proposed question if it has been determined to be relevant.

XXIX. Recording Hearings

- a. Hearings (but not deliberations) are recorded by the College for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.
- b. The Panel, the Parties, their Advisors, and appropriate administrators of the

College will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

XXX. Deliberation, Decision-making, and Standard of Proof

- a. The Panel will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The preponderance of the evidence standard of proof is used.
- b. The Panel will ensure that each of the Parties has an opportunity to review any impact statement submitted by the other party(ies). The Panel may, at their discretion, consider the statements, but they are not binding.
- c. The Panel will review the statements and any pertinent conduct history provided by Student Affairs and will determine the appropriate sanction(s).
- d. The Panel will then prepare a written deliberation statement detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions.

XXXI. Notice of Outcome

- a. Using the written deliberation statement, the Title IX Coordinator will prepare a Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within a timely manner.
- b. The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official College records, or emailed to the parties' College e-mail account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.
- c. The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the College from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.
- d. The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the College is permitted to share such information under state or federal law; any sanctions issued which the College is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the College's educational or employment program or activity, to the extent the College is permitted to share such information under state or federal law (this detail is not typically shared with the

- Respondent unless the remedy directly relates to the Respondent).
- e. The Notice of Outcome will also include information on when the results are considered by the College to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

XXXII. Statement of the Rights of the Parties

- a. Each party is provided the following rights under this process:
 - i. The right to an equitable investigation and resolution of all credible allegations of prohibited sexual misconduct/sexual harassment made in good faith to College officials.
 - ii. The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
 - iii. The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
 - iv. The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
 - v. The right not to have any personally identifiable information released to the public without consent provided, except to the extent required by law.
 - vi. The right to be treated with respect by College officials.
 - vii. The right to have College policies and procedures followed without material deviation.
 - viii. The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
 - ix. The right not to be discouraged by College officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
 - x. The right to be informed by College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by College authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
 - xi. The right to have allegations of violations of this Policy responded to promptly and with sensitivity by College Police and/or other College officials.
 - xii. The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; legal, student

financial aid, visa, and immigration assistance; or other services, both on campus and in the community.

- xiii. The right to a College-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct that presents a danger to the welfare of the party or others.
- xiv. The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of sexual misconduct/sexual harassment, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
 - 1. Relocating an on-campus student's housing to a different on-campus location
 - 2. Assistance from College staff in completing the relocation
 - 3. Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
 - 4. Transportation accommodations
 - 5. Arranging to dissolve a housing contract and a pro-rated refund
 - 6. Exam, paper, and/or assignment rescheduling or adjustment
 - 7. Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
 - 8. Transferring class sections
 - 9. Temporary withdrawal/leave of absence (may be retroactive)
 - 10. Campus safety escorts
 - 11. Alternative course completion options.
- xv. The right to have the College maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair the College's ability to provide the supportive measures.
- xvi. The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
- xvii. The right to ask the Investigator(s) and Panel to identify and question relevant witnesses, including expert witnesses.
- xviii. The right to provide the Investigator(s)/Panel with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
- xix. The right not to have irrelevant prior sexual history or character admitted as evidence.
- xx. The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- xxi. The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.

- xxii. The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.
- xxiii. The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
- xxiv. The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- xxv. The right to regular updates on the status of the investigation and/or resolution.
- xxvi. The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Sexual Misconduct Hearing Panel Members who have received relevant annual training.
- xxvii. The right to a Hearing Panel that is not single-sex in its composition, if a panel is used.
- xxviii. The right to preservation of privacy, to the extent possible and permitted by law.
- xxix. The right to meetings, interviews, and/or hearings that are closed to the public.
- xxx. The right to petition that any College representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- xxxi. The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- xxxii. The right to have the College compel the participation of faculty and staff witnesses.
- xxxiii. The right to the use of the appropriate standard of evidence, preponderance of the evidence; to make a finding after an objective evaluation of all relevant evidence.
- xxxiv. The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- xxxv. The right to have an impact statement considered by the Panel following a determination of responsibility for any allegation, but prior to sanctioning.
- xxxvi. The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale therefor (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.

- xxxvii. The right to be informed in writing of when a decision by the College is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- xxxviii. The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the College.
- xxxix. The right to a fundamentally fair resolution as defined in these procedures.

XXXIII. Sanctions

- a. Factors considered when determining a sanction/responsive action may include, but are not limited to:
 - i. The nature, severity of, and circumstances surrounding the violation(s)
 - ii. The Respondent's disciplinary history
 - iii. Previous allegations or allegations involving similar conduct
 - iv. The need for sanctions/responsive actions to prevent the future recurrence of sexual misconduct/sexual harassment
 - v. The need to remedy the effects of the sexual misconduct/sexual harassment on the Complainant and the community
 - vi. The impact on the parties
 - vii. Any other information deemed relevant by the Panel
- b. The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.
- c. The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.
- d. Student Sanctions can include, but are not limited to:
 - i. Warning - A notice, oral or written, that the student has violated a College policy.
 - ii. Probation - A written reprimand for a violation of a specified policy. Probation is for a designated period of time and includes the probability of more severe sanctions if the student is found to be violating any College policy during the probationary period. Probation may include a loss of privileges.
 - iii. Loss of Privileges - Denial of specific privileges or the ability to participate in specified College activities for a designated period of time.
 - iv. Restitution - Repayment to the College or other party for damage caused by one's actions. This may take the form of service and/or monetary or material replacement.
 - v. Discretionary Sanction - Service and/or research projects or other discretionary assignments.
 - vi. Fines/Administrative Fees - A monetary charge which may be assessed as a punitive sanction or to assist with costs associated with an educational workshop or program.

- vii. Residence Hall Suspension - Separation of the student from the residence halls for a defined period of time, after which the student is eligible to return. Conditions for re-admission may be specified. While a student is suspended, they are prohibited from being in or around any residential complex and is excluded from all residence hall privileges and activities.
- viii. Residence Hall Expulsion - Permanent separation of the student from the residence halls. When a student is expelled, they are prohibited from being in or around any residential complex and is excluded from all residence hall privileges and activities.
- ix. Academic Sanctions – In matters of classroom behavioral issues, various academic sanctions can be imposed including, but not limited to, temporary or permanent removal from classes/labs, or removal from an academic program and/or academic school.
- x. College Suspension - The termination of student status and the separation of the student or student group or organization from the College for a defined period of time, after which the student, group or organization is eligible to return. Conditions for readmission may be specified. While a student is suspended, they are prohibited from being on College premises and excluded from all student courses, privileges, and activities.
- xi. College Expulsion - Permanent separation of the student or student group or organization from the College. When a student is expelled, they are prohibited from being on College premises and excluded from all student courses, privileges, and activities.
- xii. Other Actions: In addition to or in place of, the above sanctions, the College may assign any other sanctions as deemed appropriate.
- e. Student Organization Sanctions can include, but are not limited to:
 - i. Loss of privileges.
 - ii. Loss of funding opportunities.
 - iii. Loss of recognized student organization status.
 - iv. Other discretionary sanctions.
- f. Employee Sanctions can include, but are not limited to:
 - i. Verbal/Written Warning.
 - ii. Performance Improvement Plans.
 - iii. Loss of Supervisory Authority.
 - iv. Demotion.
 - v. Leave/Suspension with or without Pay.
 - vi. Termination.

XXXIV. Withdrawal or Resignation While Charges Pending

- a. Students:
 - i. If a student has an allegation pending for violation of this Policy, the College may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

- ii. Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the College, the resolution process ends, as the College no longer has disciplinary jurisdiction over the withdrawn student.
 - iii. However, the College will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged h sexual misconduct/sexual harassment. The student who withdraws or leaves while the process is pending may not return to the College. A hold will be placed on their ability to be readmitted. They will also be barred from College property and/or events.
 - iv. If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to the College unless and until all sanctions have been satisfied.
- b. Employees:
- i. Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the College no longer has disciplinary jurisdiction over the resigned employee.
 - ii. However, the College will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged sexual misconduct/sexual harassment.
 - iii. The employee who resigns with unresolved allegations pending is not eligible for rehire with the College, and the records retained by the Office of People and Culture will reflect that status.
 - iv. All College responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

XXXV. Appeals

- a. Any party may file a request for appeal (“Request for Appeal”), but it must be submitted in writing to the Title IX Coordinator within seven (7) business days of the delivery of the Notice of Outcome.
- b. An Appeals Officer, chosen from the Title IX Team, will be designated by the Title IX Coordinator, who has not been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.
- c. The Request for Appeal will be forwarded to the Appeals Officer for consideration to determine if the request meets the grounds for appeal (a Review for Standing).
- d. This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.
- e. Appeals are limited to the following grounds:
 - i. Procedural irregularity that affected the outcome of the matter;

- ii. 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
 - iii. The Title IX Coordinator, Investigator(s), or Panel 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.
- f. If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeals Officer and the parties and their Advisors will be notified in writing of the denial and the rationale.
- g. If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeals Officer will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the Panel.
- h. The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Panel will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given seven (7) business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Appeal Officer to all parties for review and comment.
- i. The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeals Officer and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or Panel, as necessary, who will submit their responses in seven (7) business days, which will be circulated for review and comment by all parties.
- j. Neither party may submit any new requests for appeal after this time period. The Appeals Officer will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and will render a decision in no more than seven (7) business days, barring exigent circumstances.
- k. A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law.
- l. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' College e-mail. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.
- m. Sanctions Status During the Appeal

- i. Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.
- ii. If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.
- iii. The College may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.
- n. Appeal Considerations
 - i. Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
 - ii. Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
 - iii. An appeal is not an opportunity for the Appeals Officer to substitute their judgment for that of the original Panel merely because they disagree with the finding and/or sanction(s).
 - iv. The Appeals Officer may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
 - v. Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Panel for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
 - vi. Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing). When appeals result in no change to the finding or sanction, that decision is final.
 - vii. In rare cases where a procedural or substantive error cannot be cured by the original Panel (as in cases of bias), the appeal may order a new hearing with a new Panel.
 - viii. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
 - ix. In cases in which the appeal results in reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

XXXVI. Long-Term Remedies/Other Actions

- a. Following the conclusion of the resolution process, and in addition to any sanctions implemented, 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 sexual misconduct/sexual harassment, remedy the effects, and prevent reoccurrence.

- b. These remedies/actions may include, but are not limited to:
 - i. Referral to counseling and health services
 - ii. Referral to the Employee Assistance Program
 - iii. Education to the individual and/or the community
 - iv. Permanent alteration of housing assignments
 - v. Permanent alteration of work arrangements for employees
 - vi. Provision of campus safety escorts
 - vii. Climate surveys
 - viii. Policy modification and/or training
 - ix. Provision of transportation accommodations
 - x. Implementation of long-term contact limitations between the parties
 - xi. Implementation of adjustments to academic deadlines, course schedules, etc.
- c. 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.
- d. When no policy violation is found, the Title IX Coordinator will address any remedies owed by the College to the Respondent to ensure no effective denial of educational access.
- e. The College will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the College's ability to provide these services.

XXXVII. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions

- a. All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the Appeals Officer/Panel.
- b. Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the College and may be noted on a student's official transcript.
- c. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

XXXVIII. Recordkeeping

- a. The College will maintain for a period of at least seven (7) years records of:
 - i. Each sexual misconduct/sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
 - ii. Any disciplinary sanctions imposed on the Respondent;
 - iii. Any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity;

- iv. Any appeal and the result therefrom;
 - v. Any Informal Resolution and the result therefrom;
 - vi. All materials used to train Title IX Coordinators, Investigators, Panel members, and any person who facilitates an Informal Resolution process. The College will make these training materials publicly available on the College's website.
 - vii. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual misconduct/sexual harassment, including:
 - viii. The basis for all conclusions that the response was not deliberately indifferent;
 - ix. Any measures designed to restore or preserve equal access to the College's education program or activity; and
 - x. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.
- b. Penn College will also maintain any and all records in accordance with state and federal laws.

XXXIX. Disabilities Accommodations in the Resolution Process

- a. Penn College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College's resolution process. Anyone needing such accommodations or support should contact the Title IX Coordinator, who will review the request and, in consultation with the person requesting the accommodation to determine which accommodations are appropriate and necessary for full participation in the process.

Revision History:

Date:

07/2024 Updated to reflect changes in federal regulations.

11/2023 Updated to align with organizational restructure and titles.

08/2020 New Policy and Procedure language for compliance with new 2020 DOE OCR Rules, language in Policy and Procedure is taken from the 2020 ATIXA One Policy/Two Procedures Model, copyrighted by ATIXA, All Rights Reserved.

09/2017 New unified Policy and Procedure that brings together P & PR 3.02.01 (Sexual Harassment) and P & PR 4.07 (Student Sexual Misconduct).

Cross References:

Student Code of Conduct Procedure, [PR 4.43](#)

Sexual Misconduct/Sexual Harassment Policy, [P 7.30](#)