



Title IX

1. PURPOSE

This procedure establishes the guidelines at Northern Pennsylvania Regional College (“NPRC” or the “College”) for compliance with Title IX of the Education Amendments of 1972 (“Title IX”).

2. APPLICABILITY

This procedure is applicable to all employees, students, and other individuals participating or seeking to participate in College education programs and activities which occur within the United States, at NPRC Facilities.

3. ASSOCIATED POLICIES AND DOCUMENTS

- 3.1 INDX-1310-01: Master Policy Index
- 3.2 CLDR-1310: Policy Review Schedule
- 3.3 INDX-1310-02: Document Naming Key
- 3.4 Title XI of the Education Amendments of 1972
- 3.5 Title IX of the Education Amendments of 1972
- 3.6 Title VII of the Civil Rights Act of 1964; Elliott Larsen Civil Rights Act, Act 453 of 1976
- 3.7 U.S Department of Education, Office of Civil Rights
- 3.8 Family Educational Rights and Privacy Act (“FERPA”), (20 U.S.C. § 1232g; 34 CFR Part 99
- 3.9 Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)
- 3.10 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), 20 U.S.C. § 1092(f)
- 3.11 NPRC-1205: Title IX
- 3.12 NPRC-5705: Clery Act Compliance
- 3.13 NPRC-2110: Employee Code of Conduct
- 3.14 NPRC-3225: Academic Code of Conduct for Academic Students
- 3.15 PROC-3225: Academic Code of Conduct for Academic Students
- 3.16 NPRC-3235: Behavioral Code of Conduct for Students

- 3.17 PROC-3235: Behavioral Code of Conduct for Students
- 3.18 NRPC-3311: Instructor Code of Conduct
- 3.19 NRPC-9140: Drug, Alcohol, and Substance Abuse for Students

4. DEFINITIONS

- 4.1 Employee shall mean any individual that acts on behalf of the College on a full-time or part-time capacity as an administrator, staff, or faculty.
- 4.2 A Student is any individual enrolled in any course(s) of instruction offered by NRPC.
- 4.3 Facility/ies and Facility Property/ies refer to any NRPC Administrative Center(s), NRPC Education and Training Center(s), Instructional locations, Instructional Sites, or any other physical space utilized by NRPC which may or may not be primarily owned or controlled by the College at which any College activity, educational or otherwise occurs.
- 4.4 Title IX is a federal civil rights law that prohibits sex-based discrimination in any education program or activity that receives federal funding.
- 4.1 Title IX Prohibited Conduct (“Prohibited Conduct”) as defined in this Policy includes sexual harassment, sexual assault, dating violence, domestic violence, or stalking.
 - 4.1.1 Sexual harassment under Title IX means conduct on the basis of sex occurring in the United States and occurring in or related to a College Education Program or Activity, which satisfies one or more of the following:
 - 4.1.1.1 Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the College’s Education Program or Activity. Such conduct may include, but is not limited to, unwelcome sexual advances, requests for sexual favors, verbal or physical conduct of a sexual nature, sexual exploitation (including dishonesty or deception regarding the use of contraceptives or condoms during the course of sexual contact or sexual activity), sexual coercion, the touching of an unwilling person’s intimate parts, and forcing an unwilling person to touch another’s intimate parts.
 - 4.1.1.2 An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual’s participation in unwelcome sexual conduct (“Quid Pro Quo Harassment”). Whether or not the individual submits is not an element of the offense.
 - 4.1.1.3 Sexual Assault, Dating Violence, Domestic Violence, and Stalking.
 - 4.1.1.3.1 Sexual Assault is an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sexual Assault includes sexual contact or intercourse with an individual without that individual’s consent, including sexual contact or intercourse against an

individual's will or in a circumstance in which an individual is incapable of consenting to the contact or intercourse. This includes:

4.1.1.3.1.1 Nonconsensual Sexual Contact. Intentional sexual touching, however slight, with any object or part of one's body or another's private areas without consent. Sexual Contact includes:

- 4.1.1.3.1.1.1 Intentional contact with the breasts, buttock, groin, or genitals;
- 4.1.1.3.1.1.2 Touching another with any of these body parts;
- 4.1.1.3.1.1.3 Making another touch you or themselves with or on any of these body parts;
- 4.1.1.3.1.1.4 Any other intentional bodily contact in a sexual manner; or
- 4.1.1.3.1.1.5 The touching of the private body parts of another individual for the purpose of sexual gratification (i.e., fondling).

4.1.1.3.1.2 Nonconsensual Sexual Intercourse is sexual penetration or intercourse, however slight, with a penis, tongue, finger, or any object, and without consent. Penetration can be oral, anal, or vaginal.

4.1.1.3.2 Dating Violence means violence committed by a person:

- 4.1.1.3.2.1 Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- 4.1.1.3.2.2 Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - 4.1.1.3.2.2.1 The length of the relationship;
 - 4.1.1.3.2.2.2 The type of relationship; and
 - 4.1.1.3.2.2.3 The frequency of interaction between the persons involved in the relationship.

4.1.1.3.3 Domestic Violence includes felony or misdemeanor crimes of violence committed by a person who:

- 4.1.1.3.3.1 Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the College, or a person similarly situated to the spouse of the victim;
- 4.1.1.3.3.2 Is cohabitating, or has cohabited with the victim as a spouse or intimate partner;

- 4.1.1.3.3.3 Shares a child in common with the victim; or
- 4.1.1.3.3.4 Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.
- 4.1.1.3.4 Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - 4.1.1.3.4.1 Fear for the person's safety or the safety of others; or
 - 4.1.1.3.4.2 Suffer substantial emotional distress
- 4.2 Relevant means related to the allegations under investigation as part of the Title IX procedures under this policy. Questions are relevant when they seek evidence that may aid in showing whether the alleged incident(s) occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged incident(s) occurred.
- 4.3 Remedies are provided to a Complainant where a determination of responsibility for Prohibited Conduct has been made against the Respondent, following Title IX procedures that comply with this Policy. Remedies must be designed to restore or preserve access to the College's Education Program or Activity. Remedies may include disciplinary sanctions or other actions against a Respondent, such as individualized Supportive Measures. Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent. The Title IX Coordinator is responsible for ensuring effective implementation of any Remedies.
- 4.4 Respondent is an individual who has been alleged to be the perpetrator of conduct that could constitute Title IX Prohibited Conduct.
- 4.5 Retaliation means any adverse action taken by an employee or student against any individual on the basis of a complaint made by such an individual, or on the basis of such an individual's participation in an investigation, hearing, or inquiry by the College, or participation in a court proceeding relating to suspected Prohibited Conduct at the College. Retaliation shall include, but not be limited to, harassment, discrimination, threats of physical harm, job termination, punitive work schedule or research assignments, decrease in pay or responsibilities, or negative impact on academic progress.
- 4.6 Supportive Measures are non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive Measures are designed to restore or preserve equal access to the College's Education Program or Activity without unreasonably burdening the other Party, including measures designed to protect the safety of all parties or the College's educational environment, or to deter Prohibited Conduct.
- 4.7 Time Periods refer to the stated timelines, which are not binding and create no rights for the parties. The College can extend the deadlines at its discretion, with good

cause. The College will make every reasonable effort to resolve complaints in reasonably prompt timeframes.

- 4.7.1 There is no time limit on a Complainant's decision to bring a report or file a Formal Complaint, but at the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the College's education program or activity at the time they were subjected to the alleged conduct that could constitute sex discrimination under Title IX.
- 4.8 Title IX Coordinator is the employee or designee to coordinate the College's efforts to comply with Title IX and its regulations found in Part 106 of Title 34 of the Code of Federal Regulations.
- 4.9 Advisor (or Hearing Advisor) is an individual who has agreed to serve as an informal provider of support and advice for a Complainant or Respondent.
- 4.10 Complainant is an individual who is alleged to be the victim of conduct that may constitute Title IX Prohibited Conduct as defined in this Policy. A Complainant who files a Formal Complaint must be participating in, or attempting to participate in, the education program or activity of the College.
- 4.11 Confidential Employee is a College employee:
 - 4.11.1 Whose communications are privileged or confidential under Federal or State law. The employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
 - 4.11.2 Whom the College has designated as a Confidential Resource for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing these services.
- 4.12 Confidentiality and Privacy - have distinct meanings under this Policy.
 - 4.12.1 Confidentiality generally means that information shared with a licensed confidential resource cannot be revealed to any other person or office unless written permission is granted by the individual to share their information.
 - 4.12.2 Privacy generally means that information related to a report of Prohibited Conduct will only be shared with a limited circle of individuals who "need to know" in order to assist in the assessment, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.
 - 4.12.2.1 The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act, as outlined in the College's FERPA Policy. The privacy of an individual's medical and related records may be protected by the Health Insurance Portability and Accountability Act ("HIPAA"), excepting health records

protected by FERPA. Access to an employee's personnel records may be restricted by applicable state and federal law.

4.12.2.2 While there are certain limitations on privacy, the College generally will not release the names of the Complainant or Respondent to the general public without express written consent or absent another exception consistent with the law. The release of names will be guided by applicable law, including the Family Educational Rights and Privacy Act (FERPA) and the Jeanne Clery.

4.12.3 Limits to Confidentiality include the following:

4.12.3.1 Life-threatening risk - If the reporting person poses a life-threatening risk to themselves or others, responsible individuals may need to be notified, for their protection.

4.12.3.2 Child abuse reporting - Pennsylvania law (Act 31, 2014) requires that the following types of child abuse (depending on the nature and date of abuse) be reported to PA Child Protective Services (and NRPC) if there is reasonable cause to suspect that a child (a person who is currently less than 18 years of age) has been the victim of child abuse:

4.12.3.2.1 If you are less than 18 years of age and disclose that you are the victim of child abuse.

4.12.3.2.2 If you disclose that an identifiable child has been the victim of child abuse. A report may be required even if we do not meet with the child.

4.12.3.2.3 If you disclose that you abused a child when you were 14 years of age or older. A report may be required even if the victim is no longer in danger.

4.12.3.3 Clery Act – If the information being shared occurred in a Clery Act location and is a Clery Act offense (rape, fondling, incest, statutory rape, dating violence, domestic violence, and stalking), a Campus Security report must be filed with the Clery Officer. However, this does not include personally identifiable information.

4.12.3.4 Court Order or Search Warrant - Information may be required to be disclosed as a result of a court order or search warrant in connection with judicial proceedings.

4.12.3.5 As otherwise required or permitted by law, or consistent with the professional ethical obligations of the person receiving the disclosure.

4.13 Consent is a free and willing agreement to engage in a sexual act, provided without force or coercion, between individuals who are of sufficient age and are not mentally incapable, mentally disabled, mentally incapacitated or physically helpless, or incapacitated by drugs or alcohol. Consent is a clear and unambiguous agreement, expressed outwardly through mutually understandable words or actions, to engage in

a particular activity. Consent must be voluntarily given and cannot be obtained through coercion or force, and the person initiating a specific sexual activity is responsible for obtaining consent for that activity. Consent is not to be inferred from silence, or a lack of resistance. Consent is not to be inferred from an existing or previous dating or sexual relationship. Consent to engage in one sexual activity at one time is not consent to engage in a different sexual activity or to engage in the same sexual activity on a later occasion. Consent can be withdrawn by any Party at any point. Once consent is withdrawn, the sexual activity must cease immediately. For purposes of this Policy, in evaluating whether consent was freely sought and given, the issue is whether the Respondent knew, or reasonably should have known, that the activity in question was not consensual or that the Complainant was unable to consent due to incapacitation.

- 4.14 Days - any reference to days within this Policy shall be counted as College business days unless otherwise specified
- 4.15 Business Day is a day of normal College operation.
- 4.16 Education Program or Activity includes locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the Title IX Prohibited Conduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the College
- 4.17 Emergency Removal means that the College may remove a Respondent from a College education program or activity on an emergency basis.
- 4.18 Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the College investigate the allegation of Prohibited Conduct. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in one of the College's programs or activities. A Formal Complaint filed by a Complainant may be a document or electronic submission (such as by e-mail or through an online portal) but must contain the Complainant's physical or digital signature or otherwise indicate that the Complainant is the person filing the Formal Complaint.
- 4.19 Mandatory Reporter – the College has designated specific employees as mandatory reporters under this policy who hold a title of, or equivalent to, President, Vice President, and Department Directors are required to report suspected prohibited behavior under this policy to the Title IX Coordinator.
- 4.20 Party (Parties) means a Complainant and/or Respondent.
- 4.21 Informal Response is an alternative to the formal investigation and adjudication process and may include participation in educational modules and restorative practices, among other options. Restorative practices can include, but are not limited to, mediation and diplomacy. There may be no determination of responsibility nor imposition of disciplinary sanctions resulting from this informal resolution type.

4.22 Adaptable Resolution is a voluntary, non-disciplinary, alternative to formal investigations and disciplinary actions and aims to find solutions that meet the needs of those impacted while promoting safety and positive communication.

4.23 Acceptance of Responsibility Offer happens when a Respondent admits to the allegations against them. By accepting responsibility, the Respondent acknowledges their wrongdoing and may avoid further formal investigation or hearing procedures.

4.24 Consideration Statement is a written statement from a Complainant or Respondent describing the mitigating or aggravating factors that may help inform sanctioning.

4.25 No Contact Directives (NCDs) also known as No Contact Orders (NCOs) are administrative orders issued by educational institutions to restrict contact between individuals involved in a Title IX complaint or investigation. These directives aim to protect individuals from potential harm, harassment, or interference during the Title IX process, ensuring a safe environment for all parties.

5. PROCESSES, TIMELINES, AND RESPONSIBILITIES

5.1 Training and Information

5.1.1 The College will provide discrimination and harassment prevention and response training to all employees upon hire, and at least once every four years thereafter.

5.1.2 Training for employees is available via the Human Resources Information System.

5.1.2.1 Employees involved with addressing and/or resolving reports of Title IX violations will be required to complete Title IX compliance training.

5.1.3 Information for the College Community is published on the NRPC website, regionalcollegepa.org, to include, but not limited to:

5.1.3.1 Information on protections;

5.1.3.2 Sexual Assault Victims' Bill of Rights; and

5.1.3.3 Additional resources for Title IX.

5.2 Reporting

5.2.1 If you are in immediate danger, or if you believe there could be an ongoing threat to you or the College community, call 911.

5.2.2 Any person may report sex discrimination, including sexual harassment (whether or not the individual reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), by contacting the Title IX Coordinator:

5.2.2.1 In Person at 300 Second Avenue, Suite 500, Warren, PA 16365; or

5.2.2.2 Phone - 814-230-9010; or

5.2.2.3 Email - titleix@rrcnpa.org; or

5.2.2.4 Online – “Report a Concern/Complaint” form on the NRPC Website – regionalcollegepa.org.

5.2.3 The following offices manage the College’s response protocol to reports of sexual harassment:

5.2.3.1 Title IX matters involving student Respondents is the responsibility of the Director of Student Services or designee.

5.2.3.2 Title IX matters involving employees or third-party Respondents is the responsibility of the Director of Human Resources or designee.

5.3 Complaints alleging false or frivolous reports shall be handled in accordance with NRPC-3235: Behavioral Code of Conduct for Students, NRPC-3225: Academic Code of Conduct for Academic Students, and NRPC-2110: Employee Code of Conduct.

5.3.1 A student who makes a Title IX report to NRPC or other appropriate authority (e.g. law enforcement) or is reporting the experience of another, may not be subject to student conduct action related to their own possession or consumption of alcohol or other drugs in connection with the reported incident, see NRPC-9140: Drug, Alcohol, and Substance Abuse for Students.

5.3.1.1 As appropriate, involved students may be required to address concerns about the student’s substance use.

5.4 Protection from Retaliation

5.4.1 Complaints alleging Retaliation shall be handled in accordance with NRPC-3235: Behavioral Code of Conduct for Students and NRPC-2110: Employee Code of Conduct.

5.4.2 The Title IX Coordinator will ensure that prompt action is taken if either Party experiences retaliation or if the Complainant is subjected to further violations or if the original sanctions imposed on the Respondent are ineffective to protect the safety and well-being of the Complainant or other members of the College community. The Title IX Coordinator will also take reasonable steps to eliminate any hostile environment that has been created.

5.5 Supportive Measures

5.5.1 The Complainant(s) and Respondent(s) shall be offered appropriate Supportive Measures and protection from Retaliation. The Title IX Coordinator shall also inform the Complainant(s) how to make a Formal Complaint to the College under Title IX, and/or a criminal report, and how to file a complaint with the appropriate state and/or federal agency.

5.5.2 Upon receiving notice of conduct that may constitute Title IX Prohibited Conduct, the Title IX Coordinator or designee shall promptly offer Supportive Measures to the Complainant. The Coordinator will also provide information

regarding the Complainant's option to file a Formal Complaint, which initiates a formal investigation under this procedure.

- 5.5.3 The Party is not required to file a Formal Complaint to receive Supportive Measures. The provision of Supportive Measures will not be conditioned on the Complainant's participation in any formal investigation, whether the investigation is initiated by a Formal Complaint made by the Complainant or by the Title IX Coordinator. Additionally, the Complainant may report the alleged conduct solely for the purposes of receiving Supportive Measures and may choose to file a Formal Complaint at a later date, if at all.
- 5.5.4 Supportive Measures are not designed or permitted to be punitive or disciplinary measures (sanctions) imposed against a Respondent. The Respondent is presumed to be not responsible for the alleged conduct until a determination is made at the conclusion of the grievance process. Both a Complainant and a Respondent may have good-faith bases for requesting Supportive Measures. The College will consider the request of either Party for Supportive Measures and implement them where it is deemed reasonable and appropriate.
- 5.5.5 Supportive Measures may include emotional support and counseling with a Confidential Resource, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, no-contact directives, emergency removal or other similar measures. The College must maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the Supportive Measures.
- 5.5.6 The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

5.6 Emergency Removal / Individualized Safety and Risk Analysis

- 5.6.1 The College may remove a Respondent from the College's education program or activity on an emergency basis, but only after undertaking an individualized safety and risk analysis, and only if such analysis determines that there is an immediate threat to the health or safety of any student, employee, or other individual arising from the allegations of Prohibited Conduct (including the Respondent themselves). This assessment may take place at any time following the receipt of a report.
 - 5.6.1.1 In matters that involve student Respondents, the Vice President of Enrollment and Student Services, or their designee, will complete the individualized safety and risk assessment and consult the appropriate divisional Vice President.

5.6.1.1.1 If the Vice President of Academics, Vice President of Workforce Development or their designee reasonably believes that such a threat is posed, an interim suspension, or other interim action, may be assigned. In the case of such removal the College will provide the student Respondent with notice and an opportunity to challenge the decision immediately following the removal. See the NPRC Student Code of Conduct.

5.6.2 For matters involving employee Respondents, the Title IX Coordinator, in consultation with the employee's Supervisor and the Human Resources Department, will determine corrective action per NPRC-2120: Corrective Action.

5.6.3 These provisions may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

5.7 Informal Report

5.7.1 Notice to a Title IX Coordinator or to an official with authority to institute corrective measures on the College's behalf triggers the College's response obligations.

5.7.2 Upon receipt of notice of an allegation of Prohibited Conduct (which may come from any individual), the Title IX Coordinator or their designee will promptly contact the Complainant to discuss the availability of Supportive Measures, consider the Complainant's wishes with respect to Supportive Measures, inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint. A Complainant's wishes with respect to whether the College investigates should be respected unless the Title IX Coordinator determines that signing a Formal Complaint over the wishes of the Complainant is not clearly unreasonable in light of the known circumstances.

5.8 Formal Complaint

5.8.1 A Formal Complaint alleges Prohibited Conduct against a Respondent and requests that the College investigate the allegation. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the school with which the formal complaint is filed. There is no deadline for a Complainant to file a Formal Complaint alleging Prohibited Conduct and requesting that the College invoke the formal investigatory process. The passage of time may impact the College's ability to gather information related to the incident.

5.8.2 A Formal Complaint may be physically or electronically signed and must include a description of the alleged Prohibited Conduct, including the name or names of persons allegedly responsible for the alleged misconduct, the time, date and location of the alleged misconduct, if known, and the names of any

potential witnesses, if known. The Formal Complaint can be submitted in person, by mail, or online via email or by using the College's website.

5.8.3 Cross-complaints or counterclaims are permissible when the allegations made in the cross-complaint are made in good faith. Such complaints made with retaliatory intent will not be permitted. The College is obligated to ensure that College process is not used for retaliatory purposes and will therefore use an initial assessment to assess whether the cross-complaint is made in good faith. Generally, cross-complaints will be resolved through the same process as the underlying obligation and must be memorialized through the above-described Formal Complaint process.

5.8.3.1 Initial Assessment.

5.8.3.1.1 The Title IX Coordinator shall make an initial assessment as to whether the Formal Complaint on its face alleges an act of Prohibited Conduct. If not, Title IX requires that the College dismiss the matter.

5.8.3.1.2 In the event of dismissal for purposes of this Policy, mandatory or discretionary, the Title IX Coordinator may refer the matter to the appropriate division for consideration under another College Policy. This may take place prior to investigation, after investigation, or at any other time prior to adjudication. Matters will be referred as follows:

5.8.3.1.2.1 Matters in which the Respondent is a student will be referred to the Director of Student Services or designee.

5.8.3.1.2.2 Matters in which the Respondent is an employee, or a third Party, will be referred to the Director of Human Resources.

5.8.3.2 Dismissal Prior to Investigation

5.8.3.2.1 Mandatory - If the initial assessment determines that the conduct alleged in the Formal Complaint would not constitute Prohibited Conduct even if true, did not occur in the College's Education Program or Activity, or did not occur against a person in the United States, then the College must dismiss the Formal Complaint.

5.8.3.2.1.1 Upon dismissal, the College shall promptly send written notice of the dismissal, rationale, and information regarding the appeal process simultaneously to the parties.

5.8.3.2.2 Discretionary - The Complainant may request a dismissal of the Formal Complaint. The Complainant must notify the Title IX Coordinator in writing that they wish to withdraw the Formal Complaint or any allegation(s) therein. Upon receipt and review of the request for dismissal, the Title IX Coordinator may dismiss the Formal Complaint. A Complainant may re-file the complaint at a

later date and request a continuation of the formal investigation process or voluntarily agree to an informal resolution process.

5.8.3.2.3 Under certain circumstances, the Title IX Coordinator may determine that a Complainant's request for a dismissal cannot be granted because of the presence of aggravating factors. In those circumstances, the College may choose to proceed with the investigation despite the request by the Complainant(s) for the dismissal of the Formal Complaint. If such a decision is made, the Complainant(s) will be notified in writing regarding the reason(s) for the decision.

5.8.3.2.4 Aggravating factors include, but are not limited to:

- 5.8.3.2.4.1 The nature and scope of the alleged conduct, including whether the reported behavior involves the use of a weapon;
- 5.8.3.2.4.2 The respective ages and roles of the Complainant and Respondent;
- 5.8.3.2.4.3 The role of drugs and/or alcohol in the incident;
- 5.8.3.2.4.4 The risk posed to any individual or to the campus community by not proceeding, including the risk of additional harassment or violence;
- 5.8.3.2.4.5 Whether there have been other reports of misconduct or other verified misconduct by the Respondent;
- 5.8.3.2.4.6 Whether the report reveals a pattern of related misconduct (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group;
- 5.8.3.2.4.7 Whether the College possesses other means to obtain relevant evidence;
- 5.8.3.2.4.8 Fairness considerations for both the Complainant and the Respondent;
- 5.8.3.2.4.9 The College's obligation to provide a safe and non-discriminatory environment; and,
- 5.8.3.2.4.10 Any other available and relevant information.

5.8.3.2.5 A Formal Complaint may be dismissed if the Respondent is no longer enrolled at or employed by the College, or if there are specific circumstances that prevent the College from gathering evidence necessary to make a determination or carry out the grievance process (for example, the identities of the people involved are not known). In all cases, the Title IX Coordinator will notify the parties in writing regarding any dismissal, including the reason(s) for the dismissal and the parties' right to appeal.

5.8.3.3 Appeal from Dismissal - If a Formal Complaint is dismissed, both parties will have the equal right to appeal.

5.9 Voluntary Informal Resolution

- 5.9.1 Voluntary informal resolution, either Informal Response or Adaptable Resolution, may be appropriate when the College determines that it is consistent with the College's obligations under the law, institutional policies, and institutional values to end the misconduct, prevent the misconduct from happening again, and address or remedy its effects.
- 5.9.2 At any time after a Formal Complaint has been submitted, but before a final determination regarding responsibility has been made, the parties may enter into a voluntary, informal resolution process, as permitted by the College. A Complaint must be filed before an informal resolution can be considered. If the parties agree to participate in an informal resolution process, it is the College's responsibility to ensure that the matter is resolved within a reasonably prompt timeframe. While the College cannot compel a Party to participate in an informal resolution process, the College may offer informal resolution as an alternative when discussing process options. Informal resolution is not permitted in matters involving allegations of sexual harassment by an employee or student Respondent against an employee or student Complainant.
- 5.9.3 Any informal resolution agreement will be in writing and represent the final resolution of the case. Failure to adhere to the terms of the resolution agreement may constitute a separate violation of College policy and/or result in the reopening of the existing Title IX matter.
- 5.9.4 The voluntary informal resolution process will be managed as follows:
 - 5.9.4.1 Employee and third Party-related matters, by the Director of Human Resources or designee.
 - 5.9.4.2 Student-related matters, by the Director of Student Services or designee.
- 5.9.5 Informal Response - Should a Complainant request to resolve an allegation in this way, and should the College deem Informal Response to be appropriate, the College will send notice to the Respondent that explains the allegations, the terms of the proposed agreement, and the parties' rights related to voluntary informal resolution under Title IX. Should the Respondent agree to the Informal Response and comply with the resolution agreement, the matter will be considered resolved.
- 5.9.6 Adaptable Resolution - Either Party may request to pause the formal resolution process to pursue an adaptable resolution at any time after the Notice of Allegations and Investigation and before the hearing. Adaptable resolutions may include but are not limited to mutual agreement and mediation.

5.9.6.1 Upon request of a Party, and should the College Adaptable Resolution be appropriate, the College will send simultaneous notice to the parties explaining the terms of the proposed agreement and the parties' rights related to voluntary informal resolution under Title IX.

5.9.6.2 Should both parties' wish to pursue the proposed Adaptable Resolution, they must:

- 5.9.6.2.1 Provide voluntary written consent acknowledging that they are willingly entering into an informal resolution process.
- 5.9.6.2.2 Agree, in writing, that all sanctions or other conditions designed to address the behavior will be applied by:
 - 5.9.6.2.2.1 The immediate Supervisor and/or Director of Human Resources, or designee, in consultation with the Title IX Coordinator for all employee-respondent and third-party matters;
 - 5.9.6.2.2.2 The Director of Student Service, or designee, in consultation with the Title IX Coordinator for all student-related matters.
- 5.9.6.2.3 Acknowledge, in writing, that they are aware of their right to withdraw from the informal resolution process and resume the formal resolution process at any time before finalizing the resolution.

5.10 Acceptance of Responsibility Offer

- 5.10.1 The College will determine in each case if it is appropriate to provide an Acceptance of Responsibility Offer after considering the following:
 - 5.10.1.1 The nature of the alleged misconduct, including the behavior's severity, persistency, and/or pervasiveness.
 - 5.10.1.2 Whether the currently available information, if proven true, would be sufficient to determine an appropriate action plan.
 - 5.10.1.3 Whether the Respondent has acknowledged, or has indicated they would acknowledge, the violation occurred.
- 5.10.2 When determined to be appropriate, the Respondent will be given an Acceptance of Responsibility Offer during or following an Informational Meeting. Should the Respondent express interest, the Respondent and Complainant will be given the opportunity to submit a written statement for consideration during the development of an appropriate action plan. Following that opportunity, the Respondent will receive the proposed action plan and be given the opportunity to accept or deny the offer.
- 5.10.3 If the Respondent accepts responsibility, the Respondent will be deemed "in violation," and the relevant sanctioning authority will impose the offered Action Plan. The Complainant will be provided with notice that the

Respondent has accepted responsibility. While the finding of a violation(s) will be considered final, either Party may appeal to all or some of the Action Plan.

5.10.4 Expressing interest in accepting responsibility will not result in adverse inference against the Respondent should the Respondent reject the offer. If the Respondent does not accept responsibility, the case will proceed through the Formal Investigation and Adjudication Process. Should the Respondent later wish to accept responsibility during that formal process, the College must assess the available information to determine whether that is appropriate and if so, determine or revise an action plan (or, if applicable, re-offer an original proposed action plan).

5.11 Investigation of Formal Complaint

5.11.1 The College must conduct an adequate, reliable, objective, and impartial investigation of all Formal Complaints. This means that the College is committed to providing both parties with appropriate and adequate notice at all phases of the process and an equal opportunity to provide information during the investigatory process and review documents gathered as part of the investigation. Each Party will be provided with an equal opportunity to review and respond to such information. In all cases, the Respondent is presumed to be not responsible for the alleged conduct unless and until a determination is made of responsibility at the conclusion of the grievance process.

5.11.2 During the investigative process, all relevant evidence will be gathered and reviewed, taking into consideration both the inculpatory (incriminating) and exculpatory (information that demonstrates no wrongdoing) aspects of that information prior to rendering a final decision. While the Parties are encouraged to provide all pertinent information, the burden of gathering evidence remains at all times on the College. Such information may include the names of potential witnesses and documentary evidence such as emails, text messages or other similar electronic communications.

5.11.2.1 The information may also include medical, psychological, or other treatment records, provided that the Party provides the Title IX Ad Hoc Committee with written consent to consider and include the treatment records in the investigation. If the Party provides the Title IX Ad Hoc Committee with written consent, the treatment documents will become part of the evidentiary file, which both parties have the right to review.

5.11.3 The College will take reasonable steps to gather initial facts and evidence by providing both parties with an opportunity to meet with the Title IX Ad Hoc Committee. The Title IX Ad Hoc Committee may request additional interviews with a Party or parties based on information gathered during the investigation. During every interview, the Complainant and Respondent will have opportunities to provide the Title IX Ad Hoc Committee with their recollection of the alleged incident(s), the names of witnesses and copies of

documents. Providing information to the Title IX Ad Hoc Committee, whether submitted verbally or by the submission of documents, or both, is voluntary for all parties. The College cannot compel a Party or witness to answer any questions during the interview or submit documents or otherwise make any statements; however, the parties are encouraged to provide relevant information to the Title IX Ad Hoc Committee. A Party or witness's decision not to participate in the investigation, in whole or in part, will be documented in the investigative report.

- 5.11.4 The College will seek to complete the investigation and any additional necessary processes within a prompt and reasonable amount of time, typically not to exceed 120 calendar days.
 - 5.11.4.1 This timeline is not binding and creates no rights for the parties. The College can extend deadlines at its discretion.
 - 5.11.4.2 If temporary delays occur, the Complainant and Respondent will be notified in writing regarding the reason(s) for the delay.
 - 5.11.4.3 If there is a temporary delay, the parties will be notified, in writing, when the investigation resumes.
- 5.11.5 The College may, in its discretion, consolidate Formal Complaints where the allegations arise out of the same facts. The College will investigate the allegations in any Formal Complaint not subject to dismissal. The Title IX Coordinator will designate an individual (who will not be the Title IX Coordinator) to conduct an investigation of a Formal Complaint, when a decision is made not to dismiss such a complaint and when informal resolution is not appropriate or both parties do not give voluntary, informed, written consent to informal resolution in accordance with the processes above. The burden of gathering evidence and the burden of proof is on the College.
- 5.11.6 In a Title IX proceeding, an advisor's primary role is to support and guide their chosen party (complainant or respondent) through the administrative process. They may offer support, review evidence, clarify the investigation process, and ask procedural questions. At a formal hearing, advisors provide support and guidance, can ask procedural questions, challenge credibility, and question witnesses, but they cannot participate directly in the proceedings or act on their behalf.
 - 5.11.6.1 If, at any point, an Advisor becomes disruptive or fails to follow the rules for participation as set forth in this Policy, or other rules of decorum provided by the College, the College reserves the absolute and non-appealable right to remove the Advisor from the proceeding, and, if appropriate, any future meetings/proceedings. If a Party's Advisor is removed, that Party may choose another Advisor or otherwise will have one appointed for them by the College.

5.11.7 Both parties have the right to have their Advisor present during any grievance proceeding or any related meeting.

5.11.7.1 The Advisor may be, but need not be, an attorney.

5.11.7.2 An Advisor should not be selected with the actual or effective purpose of disrupting or attempting to disrupt the Title IX grievance process, or of causing emotional distress to any Party.

5.11.7.3 Parties may consult with their Advisors quietly or in writing during any meetings, but the Advisor may not speak on behalf of the advisee or directly participate otherwise in the proceedings, other than at the Title IX hearing.

5.11.7.4 Delays in the conduct process will not normally be allowed due to scheduling conflicts with Advisors.

5.12 Investigation Process

5.12.1 Notice of Allegations and Investigation - Both parties will simultaneously receive written notification of the allegations and notice that the College has initiated a formal investigation. The “Notice of Allegations and Investigation” will include:

5.12.1.1 A reasonably detailed description of the alleged behavior including the names of relevant parties, description of the alleged offending behavior(s) and the date, time, and location(s) of the incident(s), if known. It will also include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.

5.12.1.2 A statement regarding the standard of evidence to be used in considering the facts and evidence. A “preponderance of the evidence” standard means that it is more likely than not, based upon the totality of all relevant evidence and reasonable inferences from the evidence, that the Respondent engaged in the Prohibited Conduct.

5.12.1.3 A statement apprising the Party of their opportunity to present relevant facts and witnesses. In all formal investigations, both parties will have an equal opportunity to present information to the Title IX Ad Hoc Committee, including the names of witnesses and other relevant information.

5.12.1.4 A description of the College’s investigative procedures and a list of the parties’ rights, including the right to inspect and review all evidence obtained by the Title IX Ad Hoc Committee (including evidence upon which the College does not intend to rely in reaching a determination regarding responsibility), and the right for each Party to have an Advisor of their choice present at any grievance proceeding or any related meeting.

5.12.1.5 The range of possible sanctions and remedies.

5.12.1.6 The bases for appeal and procedures associated with the appeal process.

5.12.1.7 Information regarding Supportive Measures available to both Complainants and Respondents.

5.12.1.8 A statement regarding the College Policy prohibiting Retaliation.

5.12.1.9 A statement regarding the College's requirement for all parties that they will not make false statements or knowingly submit false information as prohibited by College rules and regulations.

5.12.1.10 Within five (5) days of receipt of the Notice of Allegations and Investigation, both parties shall provide the Title IX Coordinator with written notice of their Advisor's name and contact information.

5.12.2 Amended Notice

5.12.2.1 If, during the course of the investigation, the College acquires information previously unknown or unavailable to the Title IX Ad Hoc Committee at the time of the original notice (e.g. names of previously unknown relevant parties, dates of incident(s), the times or locations of incident(s), or additional allegations of misconduct involving the Respondent), the College will revise the Notice of Allegations and Investigation to include this information and simultaneously provide the parties with an amended copy of the notice.

5.12.2.2 If the College acquires information that suggests that additional Title IX Prohibited Conduct may have occurred, in addition to the alleged Title IX Prohibited Conduct raised in the initial complaint, the College may investigate the additional allegations concurrently with the initial allegation. All parties will be provided with a reasonable amount of time to respond to the new allegations, including the right to present relevant information to the Title IX Ad Hoc Committee.

5.12.3 Preliminary Investigative Report

5.12.3.1 At the conclusion of the initial investigation, the Title IX Ad Hoc Committee will draft a preliminary Investigative report that includes all evidence gathered that is directly related to the allegations in the formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility, and all inculpatory and exculpatory evidence.

5.12.3.1.1 The Title IX Ad Hoc Committee will coordinate who will review the report within five (5) days of receipt. The Title IX Ad Hoc Committee will then send the preliminary Investigative report to each Party and their Advisors in an electronic format other than email, such as a secure file-sharing platform of the College's choosing. The parties will have ten (10) days to submit a written response. The parties and their Advisors will not be permitted to

download, copy, photograph or take other measures designed to retain copies of the preliminary Investigative report.

- 5.12.3.1.2 At the conclusion of the review period, the College will remove the parties' electronic access to the preliminary Investigative report. If the College is unable to provide the parties access to the materials due to extraordinary and unforeseen circumstances, the Title IX Ad Hoc Committee will provide the parties with a hard copy of the evidence in person or, if the distance between the parties and the Title IX Ad Hoc Committee prohibits such delivery, a copy will be sent to the parties using registered mail requiring the recipient's signature. Parties who receive a hard copy of the preliminary Investigative report by registered mail will be required to return the copy to the Title IX Ad Hoc Committee by using registered mail requiring a signature by the recipient.
- 5.12.3.1.3 The Title IX Ad Hoc Committee will consider the parties' responses to the preliminary Investigative report and, if warranted, shall conduct additional investigation based thereon. The parties recognize that such additional information may cause the timelines for the completion of the investigation and grievance process to be extended.

5.12.4 Final Investigative Report

- 5.12.4.1 The Title IX Ad Hoc Committee, after reviewing and considering the parties' responses to the preliminary Investigative report and conducting any additional investigation needed, will complete a final Investigative report that fairly summarizes the relevant evidence. The parties will have five (5) days to review any additions to the report and provide one (1) final written response if they choose to do so before the Investigative report is submitted to the Title IX Coordinator.
- 5.12.4.2 Within five (5) days of receipt of the final Investigative report, the Title IX Coordinator will make a determination that:
 - 5.12.4.2.1 The College will convene a hearing before an impartial fact-finding Hearing Panel who will hear testimony from the parties and relevant witnesses, review the relevant evidence, and make a determination as to responsibility; or
 - 5.12.4.2.2 The matter will be dismissed because the investigation revealed facts that:
 - 5.12.4.2.2.1 Require a dismissal under Title IX (e.g., the conduct alleged would not constitute Title IX Prohibited Conduct, even if true, did not occur in the College's Education Program or Activity, or did not occur in the United States); or

5.12.4.2.2.2 Allow for a dismissal (e.g., if the Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint, the Respondent is no longer enrolled at or employed by the College, or specific circumstances prevent the Title IX Ad Hoc Committee from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein). If a determination is made to dismiss the Formal Complaint, the parties may exercise their right to appeal using one or more of the bases for appeal set forth below. In the absence of a dismissal, the matter will be forwarded to the appropriate College Hearing Panel for disposition.

5.12.4.3 The Title IX Ad Hoc Committee will send to each Party and their Advisors the final Investigative report (including the Title IX Coordinator's determination) for their inspection and review using a secure file-sharing platform of the College's choice.

5.12.4.4 The parties and their Advisors will not be permitted to download, copy, photograph or take other measures designed to retain copies of the final investigative report. If the College is unable to provide the parties access to the materials due to extraordinary and unforeseen circumstances, a hard copy of the evidence will be provided to the parties in person or, if the distance between the parties and the Title IX Ad Hoc Committee prohibits such delivery, a copy will be sent to the parties using registered mail requiring the recipient's signature. The same restrictions regarding copying, photographing or otherwise making attempts to retain a copy of the preliminary investigative report apply to the final Investigative report. Parties who receive a hard copy of the final Investigative report by registered mail will be required to return the copy to the Title IX Ad Hoc Committee at the conclusion of the review period by using registered mail requiring a signature by the recipient.

5.13 Formal Hearing Process

5.13.1 Receipt of Final Investigative Report

5.13.1.1 Within five (5) days of receipt of the final Investigative report, the Title IX Coordinator or their designee will select the members of the Title IX Hearing Panel and will provide a copy of the final Investigative report to the members of the Hearing Panel. Promptly after selection of the Hearing Panel members, the Title IX Coordinator or their designee will provide concurrent written notice to the parties of the date, time and location of the hearing and the identities of the Hearing Panel members.

5.13.2 Pre-hearing Meeting

5.13.2.1 To promote a fair and expeditious hearing, the parties and their Advisors may attend a pre-hearing conference with the Title IX

Coordinator or designee. The pre-hearing conference assures that the parties and their advisors understand the hearing process and allows for significant issues to be addressed in advance of the hearing. Pre-hearing meetings should take place no less than five (5) days prior to the date of the hearing.

5.13.3 Responsibilities of Hearing Panel & Parties.

5.13.3.1 Responsibilities of the Hearing Panel:

- 5.13.3.1.1 The Hearing Panel is required to objectively evaluate all relevant evidence both inculpatory and exculpatory, and to independently reach a determination regarding responsibility. The College may provide an attorney to advise the Hearing Panel. They must also:
 - 5.13.3.1.1.1 Ensure that only relevant cross-examination questions must be answered by a Party or witness before the Party or witness answers. The Hearing Panel may exclude questions that are irrelevant or duplicative.
 - 5.13.3.1.1.2 Ensure that the hearing process is administered in a fair and impartial manner and that all participants observe basic standards of decorum and that all questions are asked and answered in a respectful, non-argumentative, and non-abusive way. The Hearing Panel will be responsible for ensuring that all parties and witnesses are protected from answering questions designed to be harassing, intimidating, or abusive.
 - 5.13.3.1.1.3 Render a decision using a preponderance of the evidence standard using the facts as presented through careful examination of the final investigative report, witness testimony, including cross-examination, and the review of all relevant evidence.

5.13.3.2 Responsibilities of the Parties at the Hearing (Complainant and Respondent):

- 5.13.3.2.1 Truthfully answer questions posed by the Hearing Panel.
- 5.13.3.2.2 Truthfully answer relevant questions posed by the other Party via their Advisor.
- 5.13.3.2.3 Attend the hearing in its entirety, being present for all witness testimony.
- 5.13.3.2.4 Adhere to basic standards of decorum by answering questions posed by the Hearing Panel or a Party's Advisor in a respectful, non-argumentative, and non-abusive way.

5.13.4 General Rules for the Hearing

5.13.4.1 Technical rules of process and evidence, such as those applied in criminal or civil court, are not used in these proceedings. Evidence permitted at the live hearing is limited to only that which is relevant to the allegations in the Formal Complaint. Evidence is relevant if:

5.13.4.1.1 It has any tendency to make a fact more or less probable than it would be without the evidence; and

5.13.4.1.2 The fact is of consequence in determining the action. Evidence not previously provided in advance of the hearing may be accepted for consideration at the discretion of the Hearing Panel.

5.13.4.2 Per Title IX requirements for live cross-examination, parties have the right to cross-examine any witness, including the Title IX Ad Hoc Committee, and present both fact and expert witnesses. Only Advisors can conduct cross-examination on behalf of a Party; there is no right of self-representation, however, the Party should be an active participant in informing the questions posed by their Advisor.

5.13.4.3 Cross examination is designed to allow a Party to challenge the consistency, accuracy, memory and credibility of the opposing Party or witness. Cross examination must be relevant, respectful, and conducted in a non-abusive way. The College retains discretion under Title IX to apply rules of decorum at a live hearing that require participants (including parties, witnesses, and Advisors) to refrain from engaging in abusive, aggressive, or disruptive behavior. Failure to adhere to the rules outlined by the Hearing Panel may result in a decision to cease the hearing and reconvene once the disruptive behavior has been addressed.

5.13.4.4 Parties, through their Advisors, will ask each question one at a time and allow the Hearing Panel to determine the relevance of the question before the other Party or witness is asked to answer. This process will be strictly adhered to throughout the entire hearing process. Submission of written questions for the purpose of ascertaining relevance is not permitted.

5.13.4.5 At the request of one or both parties, the Complainant and Respondent will be permitted to participate in the hearing in separate rooms, assisted by technology that allows each Party to see, hear, and ask questions of the other Party live and in real-time. Witnesses may also appear in separate rooms but also must be clearly visible and audibly clear to the Hearing Panel, the parties, and their Advisors.

5.13.4.6 All witnesses will be considered the College's witnesses. The names of witnesses may be provided by either Party or others who may have been involved with the case. To assist this process, those who have not met with the Title IX Ad Hoc Committee will be requested to provide a brief statement to the Title IX Coordinator or their designee outlining the

relevant information they will share at least three (3) days in advance of the hearing.

5.13.4.7 There shall be a single audio record of all Title IX hearings which will be available to the parties for inspection and review. The parties are not permitted to record the hearing. The recording shall be the property of the College and will be maintained with all records of any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of Prohibited Conduct for no fewer than seven (7) years. Accordingly, documents prepared in anticipation of the hearings (including, but not limited to, the Formal Complaint, the preliminary investigative report, the final investigative report, the notices of hearing, and any prehearing submissions) and documents, testimony, or other information introduced at the hearings may not be disclosed outside of the hearing process, except as may be required or authorized by law or legal proceeding. In particular, to respect the reasonable privacy of all participants, no Party (or representative), nor witness, may record the hearing or disclose any recording of the hearing or any portion thereof. Any violation of privacy requirements shall constitute a violation of this Policy, which may result in disciplinary action.

5.13.4.8 If a Party or witness, with notice, does not appear before the Hearing Panel, the hearing will take place in their absence. If a Party or witness appears at the hearing but refuses to answer questions posed to them by the other Party's Advisor, the Hearing Panel will reach its determination using the evidence available to them. The Hearing Panel may not draw an inference as to the responsibility of the Respondent based solely on any Party or witness' absence or refusal to undergo cross-examination. If a Party's Advisor does not appear at the time of the hearing, the College will provide an Advisor for that Party without fee or charge, to conduct cross-examination on behalf of that Party. However, choosing to answer some material questions but not others, or choosing to participate in some portions of the process but not others, may be considered during determinations regarding credibility or the weight given to the evidence provided.

5.13.4.9 If the matter involves more than one Respondent, the Title IX Coordinator may permit the hearing concerning each Respondent to be conducted either jointly or separately.

5.13.5 Conclusion of the Hearing

5.13.5.1 Following the conclusion of the hearing, the Hearing Panel will confer and by majority vote determine whether the evidence (including the information provided in and by the final Investigative report, the parties' written statements, if any, the evidence presented at the hearing, and the testimony of the parties and witnesses) establishes that it is more likely than not that the Respondent committed a violation of this Policy. The

Hearing Panel will typically submit its finding of responsibility or non-responsibility and rationale in writing to the Title IX Coordinator within five (5) days of the hearing. Decisions made by the Hearing Panel are final pending the normal review and appeal process.

5.13.6 Consideration Statements

5.13.6.1 Following the conclusion of the hearing, the Title IX Coordinator or designee will instruct the parties that they may submit a Consideration Statement, if they choose, to be received by the Title IX Coordinator or designee no later than two (2) days from the date of the hearing. The Consideration Statement may not exceed five (5) pages, and under no circumstance will more than one Consideration Statement be permitted from either Party. The Consideration Statements will only be reviewed in the event of a finding of responsibility that may result in sanctioning.

5.14 Sanctions - Within five (5) days of receipt of the Hearing Panel's finding, the Title IX Coordinator or their designee will review the finding and provide a copy of the finding to the appropriate sanctioning authority, if applicable, along with the parties' consideration statements, if any. The sanctioning body will assign sanctions within five (5) days of receipt of the finding and consideration statements, if any, in both student cases and employee cases.

5.14.1 For Student Respondents

5.14.1.1 If the Respondent is found to be responsible for the Prohibited Conduct as an outcome of the hearing, the Director of Student Services or their designee, will assign sanctions, considering whether a sanction will:

5.14.1.1.1 Bring an end to the violation in question,

5.14.1.1.2 Reasonably prevent a recurrence of a similar violation, and

5.14.1.1.3 Remedy the effects of the violation.

5.14.1.2 Sanctions for the finding of responsibility will depend upon the nature and gravity of the misconduct, and any record of prior student discipline, if applicable. Sanctions may include, without limitation, formal warning, conduct probation, suspension, and expulsion. The College reserves the right to impose other sanctions and/or educational, reflective, and restorative outcomes in addition to the administrative sanctions listed above in response to the specific circumstances of a case.

5.14.1.3 Supportive measures, including No Contact Directives, may also be continued or modified. Imposition of the appropriate remedy and/or sanction will be implemented only after all appeals have been exhausted.

5.14.2 For Employee Respondents

5.14.2.1 If the Respondent is found to be responsible for the Prohibited Conduct as an outcome of the hearing, the Title IX Coordinator or designee will provide a copy of the hearing panel's finding to the Human

Resources Department to begin the appropriate corrective action per NPRC-2120: Corrective Action.

5.14.2.2 Supportive measures, including No Contact Directives, may also be continued or modified. Imposition of the appropriate remedy and/or sanction will be implemented only after all appeals have been exhausted.

5.15 Employee sanctions for the finding of responsibility will depend upon the severity of the infraction previous violations, imbalance of power, and impact on the Complainant. Sanctions may include but are not limited to, formal written warning, disciplinary probation, mandatory training, restrictions, change in position, suspension, and termination or dismissal.

5.16 Written Notice of Outcome and Sanctions - Within five (5) days of receipt of the notice of sanctions issued by the sanctioning body, the Title IX Coordinator will review the decision of the Hearing Panel and the sanctions, if applicable, and will send written notice ("Notice of Outcome") of both simultaneously to the parties. The Notice of Outcome from the Title IX Coordinator or their designee will include:

- 5.16.1 If the Respondent is found responsible, the specific behaviors concluded to be Title IX Prohibited Conduct.
- 5.16.2 Description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
- 5.16.3 Findings of fact supporting the determination.
- 5.16.4 Conclusions regarding the application of the NRPC Student Code of Conduct (for student-related matters) or employee handbooks and other applicable College policies (for employee-related matters).
- 5.16.5 Statement of, and rationale for, the result of each allegation, including a determination regarding responsibility, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to Complainant.
- 5.16.6 Sanctions, if applicable.
- 5.16.7 Procedures and bases for the Complainant and Respondent to appeal.

5.17 Appeal Rights of Parties - The College offers both parties appeal rights from either a determination regarding responsibility, or the College's dismissal of a Formal Complaint or any allegations, at any stage.

- 5.17.1 Appeals must be grounded in one or more of the following rationales:
 - 5.17.1.1 Procedural irregularity that affected the outcome of the matter;
 - 5.17.1.2 New evidence that was not reasonably available at the time the determination regarding responsibility was made has come to light that could affect the outcome of the matter;

5.17.1.3 The Title IX Coordinator, Title IX Ad Hoc Committee(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual parties in particular, and that bias affected the outcome of the matter; and/or,

5.17.1.4 The sanction(s) imposed was/were outside the College's sanction range for such violations and/or not justified by the nature of the violation.

5.17.2 Appeals must be submitted in writing to the Title IX Coordinator or their designee within five (5) business days of the date of the Notice of Outcome or Notice of Dismissal.

5.17.2.1 The Title IX Coordinator or their designee shall immediately provide notice of the appeal to the non-appealing Party, who has five (5) days to submit a written response to the appeal which addresses solely the ground(s) alleged for the appeal.

5.17.2.2 The non-appealing Party shall be limited to one and only one written response to the appeal. Upon receipt of the non-appealing Party's response to the appeal, the Title IX Coordinator or their designee will submit the appeal and the non-appealing Party's response to the appeal officer, who shall not be the same individual who issued the Dismissal, Finding of Responsibility, or Sanction.

5.17.3 The Appeal Officer for students is the Vice President of Enrollment and Student Services or their designee.

5.17.4 The appeal officer for employees is the Vice President of Finance and Operations or their designee.

5.17.5 The appeal officer's review will be based only on the written record, which shall consist of the final Investigative report, Notice of Outcome, written appeal and written appeal response (if any), as well as the recording of the hearing, and will not include meetings or discussions with the parties or Title IX personnel directly involved in the investigation. Therefore, the appealing Party should include any supporting documents with their written appeal, including any alleged new evidence that was not available at the time of the hearing that may have affected the outcome. The appeal officer may consult with the Title IX Coordinator regarding matters of procedure, as appropriate.

5.17.6 For an appeal related to the dismissal of a Formal Complaint based on the limited grounds above, the appeal officer will decide whether to approve or reject the decision of the Title IX Coordinator. If rejected, the appeal officer will return the Formal Complaint to the Title IX Coordinator, and the complaint process shall proceed. If approved, the matter is closed.

5.17.7 For the appeal of a finding of the Title IX Hearing Panel based on the limited grounds, the appeal officer will decide whether to approve, reject, or modify the decision and/or sanctions or to remand the case to the Hearing Panel for clarification or a completely new hearing. The appeal officer's decision will

confirm and correct any identified procedural irregularities, conflicts of interest or bias, and/or ensure that any newly discovered evidence is included in their decision.

5.17.8 Within five (5) days of receipt of the appeal packet, the appeal officer will issue a final written decision simultaneously to both parties and the Title IX Coordinator describing the result of the appeal and the rationale for the result. The decision of the appeal officer is final.

5.18 Record-Keeping Provision

5.18.1 The College will retain a full record of all complaints filed under these provisions for a period of no less than seven (7) years from the date of the initial report or Formal Complaint, whichever is earlier.

5.18.2 Records include any actions, including any supportive measures, taken in response to a report or Formal Complaint of Prohibited Conduct.

5.18.3 The parties may request to inspect and review the records for a closed matter at any time during the retention period. The College will provide the parties with access to the records within a reasonable timeframe, not to exceed forty-five (45) calendar days from the date of the request.

5.19 Parties have the right to file a complaint directly with the U.S. Department of Education, Office for Civil Rights (OCR).

5.19.1 Visit the OCR website - <https://www.ed.gov/about/ed-offices/ocr> to obtain further information about filing a complaint with OCR.

5.19.2 Information regarding applicable timelines and procedures or further information about filing a complaint is available from OCR:

5.19.2.1 Call: 1-800-421-3481; or TDD 1-800-877-8339; or

5.19.2.2 Email ocr@ed.gov.

5.20 Additional Enforcement Information

5.20.1 The U.S. Equal Employment Opportunity Commission (EEOC) investigates reports of unlawful harassment and discrimination, including sex-based harassment, in employment.

5.20.1.1 Call: 1-800-669-6820 or TDD 1-844-234-5122 or
Email: info@eeoc.gov
File charges go to: <https://publicportal.eeoc.gov/Portal/Login.aspx>

5.21 Additional Resources

5.21.1 An individual who seeks confidential assistance may find resources on the College website – regionalcollegeapa.org.

5.21.2 Students and Employees may seek assistance via the Employee Assistance Program (EAP):

5.21.2.1 ESI Higher Education EAP
1-800-252-4555
www.theEAP.com

6. REVIEW STATEMENT

Procedures are reviewed as needed or when the related policy is reviewed in accordance with CLDR-1310: Policy Review Schedule.

7. APPROVAL

Name	Title	Date
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Revision Notes: Procedural Revision