

CHAPTER 14: SAN JUAN COLLEGE EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION POLICY

14.1 Purpose

San Juan College is committed to maintaining a positive learning and working environment, as well as other benefits, programs, and activities that are free from discrimination based on protective characteristics, harassment, and retaliation for engaging in protected activity.

San Juan College values and upholds the equal dignity of all members of its community and strives to balance the rights of the Parties in the resolution process during what is often a difficult time for all involved.

To ensure compliance with federal, state, and local civil rights laws and regulations and affirm its commitment to promoting fairness and equity in all aspects of the education program or activity, San Juan College has developed policies and procedures that provide for prompt, fair, and impartial resolution of allegations of protected characteristic discrimination, harassment, or retaliation.

14.2 Definitions

The following definitions apply to the Equal Opportunity, Harassment, and Non-Discrimination Policy and Procedures:

Advisor. Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings related to the Resolution Process and advise the party on that process.

Administrator. The person with primary responsibility for overseeing and enforcing the Equal Opportunity, Harassment, and Non-Discrimination Policy and Procedures. As used in these policies and procedures, the “Administrator” also includes their designee(s).

Appeal Decision-maker. The person or panel who accepts or rejects a submitted appeal request, determines whether any of the grounds for appeal are met, and directs responsive action(s), accordingly.

CBA. The Collective Bargaining Agreement entered into between San Juan College and San Juan College Education Association as may be amended or modified.

Complainant. A student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, or retaliation under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute discrimination or harassment or under the Policy and who was participating or attempting to

participate in the College's education program or activity at the time of the alleged discrimination, harassment or retaliation.

Complaint. An oral or written request to the College that can objectively be understood as a request for the College to investigate and make a determination about the alleged Policy violation(s).

Confidential Employee.

- a. An employee whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of this definition, 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
- b. An employee whom the College has designated as confidential under this Policy for the purpose of providing services to persons related to discrimination, harassment, or retaliation. If the employee also has a duty not associated with providing those services, the employee's confidential status only applies with respect to information received about discrimination, harassment, or retaliation in connection with providing those services; or
- c. An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about discrimination, harassment, or retaliation. The employee's confidential status only applies with respect to information received while conducting the study.

Day. A business day when the College is open and in normal operation. Unless specifically noted as calendar days, all references in the policy to days refer to business days.

Decision-maker. The person or panel that hears the evidence determines relevance, makes the Final Determination of whether the policy has been violated, and/or assigns sanctions.

Education Program or Activity. Locations, events, or circumstances where the College exercises substantial control over the context in which the discrimination, harassment, and/or retaliation occurs and also includes any building owned or controlled by a student organization that the College officially recognizes.

Employee. A person employed by the College either full- or part-time, including student employees when acting within the scope of their employment.

Final Determination. A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.

Finding. A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a "finding of fact").

Informal Resolution. A resolution agreed to by the parties and approved by the EEO Officer/Title IX/Section 504 Coordinator that occurs prior to a Final Determination in the Resolution Process.

Investigator. The person(s) authorized by the College to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.

Investigation Report: The Investigator's summary of all relevant evidence gathered during the investigation. Variations include the Draft and Final Investigation Reports.

Knowledge. When the College receives notice of conduct that reasonably may constitute harassment, discrimination, or retaliation in its Education Program or Activity.

Mandated Reporter. A College employee who is obligated by policy to share knowledge, notice, and/or reports of discrimination, harassment, and/or retaliation with the EEO Officer/Title IX/Section 504 Coordinator.

Nondiscrimination Team. The EEO Officer/Title IX/Section 504 Coordinator, any deputy coordinators, and any member of the resolution process.

Notice. When an employee, student, or third party informs the EEO Officer/Title IX/Section 504 Coordinator of the alleged occurrence of discriminatory, harassing, and/or retaliatory conduct.

Parties. The Complainant(s) and Respondent(s), collectively.

Pregnancy or Related Conditions. Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.

Protected Characteristic. Any characteristic for which a person is afforded protection against discrimination and harassment by law or College Policy.

Relevant Evidence. Evidence that may aid a Decision-maker in determining whether the alleged discrimination, harassment, or retaliation occurred, or in determining the credibility of the Parties or witnesses.

Remedies. Typically, post-resolution actions are directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to the College's Education Program and Activity.

Resolution Process. The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution and Administrative Resolution.

Respondent. A person who is alleged to have engaged in conduct that could constitute discrimination based on a protected characteristic, harassment, or retaliation for engaging in a protected activity under this Policy.

Sanction. A consequence imposed on a Respondent who is found to have violated this Policy.

Sex. Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Student. Any person admitted and/or enrolled at San Juan College. Persons not officially enrolled for a particular semester, but who are eligible to enroll or who have a continuing relationship with San Juan College may be considered students.

Title IX Coordinator. At least one official designated by the College to ensure ultimate oversight of compliance with Title IX and the College's Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the Coordinator for specific tasks.

14.3 Notice of Non-Discrimination

San Juan College does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of actual or perceived race, color, national origin, ancestry, religion, sex, pregnancy or related conditions, sexual orientation, gender identity, national origin, disability, age, genetic information, spousal affiliation, veteran's status, or on the basis of any other category protected under federal, state and local laws.

This Policy covers non-discrimination in both employment and access to educational opportunities. Therefore, any member of the San Juan College community whose acts deny, deprive, unreasonably interfere with or limit the education or employment, access to student housing, benefits, and/or opportunities of any member of the San Juan College community, on the basis of that person's actual or perceived protected characteristic(s), is in violation of this Policy.

San Juan College will promptly and effectively address any such discrimination of which it has knowledge/notice using the resolution process in the Equal Opportunity, Harassment, and Non-Discrimination Procedures.

Compliance requires the personal dedication of every member of the college community to implement the commitments of the institution.

1. Non-Discrimination Team Contacts:

San Juan College has appointed the Non-Discrimination Team, comprised of the following individual(s), to coordinate the San Juan College's compliance with federal, state, and local civil rights laws and ordinances:

For discrimination and harassment allegations [including based on sex or disability]:

Stacey Allen

Compliance Officer and Equal Employment and Opportunity Officer, Title IX and Section 504/Title II Coordinator ("EEO Officer/Title IX/Section 504 Coordinator")

Human Resources

Main Campus, Educational Services Building, Second Floor, Room 4236
4601 College Boulevard, Farmington, NM 87402
505-566-3515
TitleIX@sanjuancollege.edu
<https://www.sanjuancollege.edu/about/consumer-info/title-ix/>

For Employee discrimination and harassment investigations [including based on sex or disability]:

Employee Relations and designated as Title IX Investigator
Human Resources
Main Campus, Educational Services Building, Second Floor, Room 4237
4601 College Boulevard, Farmington, NM 87402
505-566-4413

For Student discrimination and harassment investigations [including based on sex or disability]:

Dean of Students and designated Title IX Deputy and Investigator
Student Services
Main Campus, Educational Services Building, First Floor, Room 4122
4601 College Boulevard, Farmington, NM 87402
505-566-3170

For Student requests for disability adjustment/aids/accommodations:

Accessibility Coordinator
505-566-3271
Accessibilityservices@sanjuancollege.edu
<https://www.sanjuancollege.edu/support/accessibility-services/>

Collectively, these individuals are responsible for providing comprehensive non-discrimination education and training; coordinating San Juan College's timely, thorough, and fair response, investigation, and resolution of all alleged prohibited conduct under this policy; and monitoring the effectiveness of this policy and related procedures to ensure an education and employment environment free from discrimination, harassment, and retaliation.

San Juan College recognizes that allegations under this policy may include multiple forms of discrimination and harassment as well as violations of other San Juan College policies; may involve various combinations of students, employees, and other members of the San Juan College community; and may require the simultaneous attention of multiple San Juan College departments. Accordingly, all San Juan College departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable San Juan College policies, to provide uniform, consistent, efficient, and effective responses to alleged discrimination, harassment, or retaliation.

2. External Contact Information:

Student concerns about San Juan College's application of this policy and compliance with certain federal civil rights laws may also be addressed to:

Office for Civil Rights (OCR)
U.S. Department of Education
Denver Office
Cesar E. Chavez Memorial Building 1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582
Telephone: 303-844-5695
FAX: 303-844-4303; TDD: 800-877-8339 Email: OCR.Denver@ed.gov

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Employee concerns about San Juan College's application of this Policy and compliance with certain federal civil rights laws may also be addressed to:

Albuquerque Area Office
U.S. Equal Employment Opportunity Commission
500 Gold Avenue S.W., Suite 6401
PO Box 128
Albuquerque, NM 87103
Telephone: 1-800-669-4000
FAX: 505-248-5233; TTY: 1-800-669-6820, ASL Video: 844-234-5122
[Equal Employment Opportunity Commission](#)

3. Mandated Reporting and Confidential Employees:

All San Juan College faculty and employees (including student-employees), other than those deemed Confidential Employees, are Mandated Reporters and are expected to promptly report all known details of actual or suspected discrimination, harassment, and/or retaliation to appropriate officials immediately, although there are some limited exceptions. Supportive measures may be offered as the result of such disclosures without formal San Juan College action.

Complainants may want to carefully consider whether they share personally identifiable details with Mandated Reporters, as those details must be shared with the Title IX Coordinator.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or policy violations, and these employees will immediately pass notice to the Title IX Coordinator (and/or police if desired by the Complainant or required by law), who will act when an incident is reported to them.

The following sections describe the College's reporting options for a Complainant or third party (including parents/guardians when appropriate):

A. Confidential Employees

To enable Complainants to access support and resources without filing a Complaint, the San Juan College has designated specific employees as Confidential Resources. Those designated as Confidential Resources are not required to report actual or suspected discrimination, harassment, or retaliation in a way that identifies the Parties. They will, however, provide the Complainant with the Title IX Coordinator's contact information and offer options and resources without any obligation to inform an outside agency or San Juan College official unless a Complainant has requested the information be shared.

There are three categories of Confidential Employees: 1) Those with confidentiality bestowed by law or professional ethics, such as lawyers, medical professionals, clergy, and counselors; 2) Those whom San Juan College has specifically designated as confidential for purposes of providing support and resources to the Complainant; and 3) Those conducting human subjects research as part of a study approved by San Juan College's Institutional Review Board (IRB). For those in category 1), above, to be able to respect confidentiality, they must be in a confidential relationship with the person reporting, such that they are within the scope of their licensure, professional ethics, or confidential role at the time of receiving the notice. These individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor, elder, or individual with a disability or when required to disclose by law or court order.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with the following Confidential Employees:

Confidential Employees

*Counselors**

San Juan College Student Health Center

Phone: (505) 566-3597

Email: counseling4mentalhealth@sanjuancollege.edu

***Internal Confidential Resource for Students**

Employee Assistance Program

Well-Being Solutions*

Employee calls for appointment: (833) 515-0771

Telecommunication Device for the Deaf or TTY: (800) 697-0353

For more information visit: [EAP Well Being Solutions Online](#) with EAP login: SONMEAP

***Internal Confidential Resources for Employees**

Employees who have confidentiality as described above, and who receive notice within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client or patient.

Failure of a Mandated Reporter, as described above in this section, to report an incident of discrimination, harassment, or retaliation of which they become aware is a San Juan College Policy violation and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations when a harasser is a Mandated Reporter. Such individuals are obligated to report their own misconduct; failure to do so is a chargeable offense under this Policy.

A Mandated Reporter who is themselves a target of harassment or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

In addition, Complainants may speak with individuals unaffiliated with San Juan College without concern that Policy will require them to disclose information to the institution without permission, including licensed professional counselors and other medical providers, local rape crisis counselors, domestic violence resources, local or state assistance agencies, clergy/chaplains, and attorneys.

Confidential External Resources

Sexual Assault Services of Northwest New Mexico

622 W. Maple St.

Farmington, New Mexico 87401

Phone: (866) 908-4700; (505) 326-4700; (505) 325-2805

[Sexual Assault Services of NW New Mexico Website](#)

Family Crisis Center

208 E. Apache

Farmington, New Mexico 87401

Phone: (505) 325-3549; Hotline (505) 564-9192; (888) 440-9192

[Family Crisis Center Website](#)

*Also provides services for the offender.

New Mexico Children, Youth & Families Department

Phone: (505) 795-1645

[Children, Youth & Families Domestic Violence Services](#)

Farmington Police Department

Victim Advocate
Phone: (505) 599-1053 or (505) 486-5631
Email: sholiday@fmtn.org

4. Scope:

This policy applies only to alleged incidents that occur after August 1, 2024. For alleged incidents of sexual harassment occurring prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply. Applicable versions of those policies and procedures are available from the EEO Officer/Title IX/Section 504 Coordinator and at <https://www.sanjuancollege.edu/about/consumer-info/title-ix/>.

This Policy applies to all faculty, employees, students, and other individuals participating in or attempting to participate in San Juan College's program or activities, including education and employment.

This Policy prohibits all forms of discrimination on the basis of the protected characteristic(s) listed in the Notice of Non-Discrimination. The Equal Opportunity, Harassment, and Non-Discrimination Procedures may be applied to incidents, patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with this Policy.

In the event of a conflict between this Policy and the CBA, the provisions of the CBA will control.

5. Jurisdiction:

This Policy applies to San Juan College's education programs and activities (defined as including locations, events, or circumstances in which the College exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where the College has disciplinary authority, and to misconduct occurring within any building owned or controlled by a San Juan College-recognized student organization.

This Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to the College's education program or activities. San Juan College may also extend jurisdiction to off-campus and/or online conduct when the conduct affects a substantial college interest.

A substantial College interest includes:

- 1) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
- 2) Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student, employee, or other individual.

- 3) Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
- 4) Any situation that substantially interferes with the College's educational interests or mission].

For disciplinary action to be issued under this policy, the Respondent must be a San Juan College faculty member, student, or employee at the time of the alleged incident. If the Respondent is unknown or is not a member of the College community, the EEO Officer/Title IX/Section 504 Coordinator will offer to assist the Complainant in identifying appropriate institutional and local resources and support options and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). The College can also assist in contacting local law enforcement if the individual would like to file a police report about criminal conduct.

When the Respondent is enrolled in or employed by another institution, the EEO Officer/Title IX/Section 504 Coordinator can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

6. Supportive Measures:

San Juan College will offer and implement appropriate and reasonable supportive measures to the Parties upon notice of alleged discrimination, harassment, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to the College's education program or activity, including measures designed to protect the safety of all parties and/or the College's educational environment and/or to deter discrimination, harassment, and/or retaliation.

The EEO Officer/Title IX/Section 504 Coordinator promptly makes supportive measures available to the parties upon receiving notice/knowledge or a complaint. At the time that supportive measures are offered, if a complaint has not been filed, the College will inform the Complainant, in writing, that they may file a complaint with the College either at that time or in the future. The EEO Officer/Title IX/Section 504 Coordinator will work with a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

San Juan College will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the College's ability to provide those supportive measures. The College will act to ensure as minimal an academic/occupational impact on the parties as possible. The College will implement measures in a way that does not unreasonably burden any party.

These actions may include, but are not limited to:

- a. Referral to counseling, medical, and/or other healthcare services
- b. Referral to the Employee Assistance Program

- c. Referral to community-based service providers
- d. Referral for Visa and immigration assistance
- e. Student financial aid counseling
- f. Education to the College community or community subgroup(s)
- g. Altering campus housing assignment(s)
- h. Altering work arrangements for employees or student-employees
- i. Safety planning
- j. Providing campus safety escorts
- k. Providing transportation assistance
- l. Implementing contact limitations (no contact orders) between the Parties
- m. Academic support, extensions of deadlines, or other course/program-related adjustments
- n. Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- o. Timely warnings
- p. Class schedule modifications, withdrawals, or leaves of absence
- q. Increased security and monitoring of certain areas of the campus
- r. Any other actions deemed appropriate by the Title IX Coordinator

Violations of no-contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing Complaint under this Policy.

The Parties are provided with a timely opportunity to seek modification or reversal of the College's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the EEO Officer/Title IX/Section 504 Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the definition of supportive measures in § 106.2 of the federal Title IX Regulations. The College will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances change materially. The College typically renders decisions on supportive measures within seven (7) business days of receiving a request and provides a written determination to the impacted party(ies) and the EEO Officer/Title IX/Section 504 Coordinator.

14.4 Disability Discrimination and Accommodation

1. San Juan College is committed to full compliance with the Americans with Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws and regulations pertaining to individuals with disabilities.
2. Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity.

3. The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the College, regardless of whether they currently have a disability. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

4. The Human Resources Compliance Officer has been designated as the Equal Employment and Opportunity Officer, Title IX and Section 504/Title II Coordinator (“EEO/Title IX/Section 504 Coordinator”) is the San Juan College’s ADA/504 Coordinator responsible for overseeing efforts to comply with these disability laws, including responding to grievances and conducting investigations of any allegation of noncompliance or discrimination based on disability.

5. Grievances related to disability status and/or accommodations will be addressed using the procedures below. For details relating to disability accommodations in the San Juan College’s resolution process, contact the Title IX Coordinator at TitleIX@sanjuancollege.edu or (505) 566-3515.

A. Students with Disabilities

1. All faculty, staff, and employees at San Juan College are required to comply with federal regulations regarding reasonable accommodations for students with disabilities, in accordance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act as amended (ADAAA, 2008).

2. Faculty, staff, and employees must comply with requests for reasonable accommodations and requests. However, there is an exception to this obligation as Federal law does not require the College to make an accommodation that fundamentally alters an essential required element of a course or program. The burden of showing fundamental alteration or essential requirement is on the College.

3. All requests for accommodation will be reviewed and approved by the Accessibility Services Coordinator after meeting with the student and with consultation, when appropriate, with the faculty or program chairs, deans, and the Vice President of Learning. Faculty members can object to an accommodation issued by the Coordinator which will result in separate meetings with the faculty member and the student on possible alternative accommodations. Faculty objections should only be in exceptional circumstances. Faculty, staff, and employees with questions or concerns about the details of an accommodation should contact the Accessibility Services Coordinator.

4. Faculty, staff, and employees must treat information regarding a student’s disability and/or requests for accommodation as confidential. To ensure consistency in following federal guidelines, the Accessibility Services Coordinator must review and approve all requests for accommodations from students with documented disabilities. Notices of accommodation will

be sent out each semester to each affected faculty member.

5. Faculty should include the following statement on each course syllabus:

Students with documented disabilities who may need academic adjustments or auxiliary aids or services for this course are required to register with the Accessibility Services Coordinator. The Coordinator can be reached at (505) 566-3271 or by email at accessibilityservices@sanjuancollege.edu.

6. Faculty are also required to comply with federal laws prohibiting discrimination on the basis of a student's disability.

7. Questions or concerns regarding behaviors that may be considered discriminatory should be directed to the Coordinator of Accessibility Services Coordinator, the EEO/Title IX/Section 504 Coordinator, or the Vice President for Student Services, who can be reached at (505) 566-3318. All complaints regarding discrimination regarding reasonable accommodations including, but not limited to, those asserting the denials of an accommodation as disability discrimination as well as for harassment or retaliation against a student arising from the accommodation process for students with disabilities will be investigated subject to the provisions of the policy as set forth in the section titled "Reports/Complaints of Discrimination, Harassment, and/or Retaliations."

8. San Juan College's policies and procedures do not limit or supplant statutory protections for persons with disabilities and the remedies they provide for the denial of requests for reasonable accommodation. Requirements governing the initiation of statutory claims remain unchanged, including the time frames for filing such claims.

B. Employees with Disabilities

1. The College complies with federal and state requirements that extend civil-rights protection to persons with disabilities and prohibit employment discrimination on the basis of disability.

2. San Juan College will endeavor to make reasonable accommodations for qualified individuals with known or considered disabilities unless doing so would result in an undue hardship. An employee with a disability is responsible for submitting a request for an accommodation to the ADA/504 Coordinator and providing necessary documentation. The ADA/504 Coordinator will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties in accordance with San Juan College's applicable policies.

For details relating to disability accommodations in the San Juan College's Resolution Process, see "*Accommodations and Support During the Resolution Process*" of this policy or contact the

Title IX Coordinator at TitleIX@sanjuancollege.edu or (505) 566-3515.

14.5 Online Harassment and Misconduct

San Juan College policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the College's education program and activities, or when they involve the use of College networks, technology, or equipment.

Although San Juan College may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to the College, it will engage in a variety of means to address and mitigate the effects. These means may include the use of the Resolution Process to address off-campus conduct whose effects contribute to limiting or denying a person access to the College's education program or activity.

Nothing in this Policy is intended to infringe upon or limit a person's rights to free speech. Any online posting or other electronic communication by students, including technology-facilitated bullying, stalking, harassment, etc., occurring completely outside of the College's control (e.g., not on College networks, websites, or between College email accounts) will only be subject to this Policy when such online conduct can be shown to cause (or will likely cause) a substantial in-program disruption or infringement on/harm to the rights of others. Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided.

Off-campus harassing speech by employees, whether online or in person, may be regulated by the College only when such speech is made in an employee's official or work-related capacity.

14.6 Inclusion Related to Gender Identity/Expression

San Juan College strives to ensure that all individuals are safe, included, and respected in their working and learning environments, regardless of their gender identity or expression, including intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse students and employees.

Discrimination and harassment on the basis of gender identity or expression are not tolerated by San Juan College. If a member of the College community believes they have been subjected to discrimination under this Policy, they should follow the appropriate reporting process described herein.

San Juan College is committed to fostering a climate where all identities are valued, contributing to a more vibrant and diverse community. The purpose of this policy is to have the College administratively address issues that some students and employees, including those identifying as intersex, transgender, agender, nonbinary, and gender-diverse, may confront as they navigate systems originally designed around the assumption that gender is binary.

Misgendering or mispronouncing is the intentional or unintentional use of pronouns or identifiers that are different from those used by an individual. Unintentional misgendering is usually resolved with a simple apology if someone clarifies their pronouns for you. Intentional misgendering is inconsistent with the type of community we hold ourselves out to be and may constitute a Policy violation if the effect is greater than de minimis harm.

Deadnaming, along with misgendering, can be very traumatic to a person who is transgender, transitioning, nonbinary, or gender-diverse. Deadnaming means using someone's birth-assigned (cisgender) name rather than the name they have chosen.

This Policy should be interpreted consistent with the goals of maximizing the inclusion of intersex, transgender, transitioning, agender, nonbinary, and gender-diverse students and employees, including:

- a. Maintaining the privacy of all individuals consistent with law
- b. Ensuring all students have equal access to educational programming, activities, and facilities, including restrooms and locker rooms
- c. Ensuring all employees have equal access to employment opportunities and work, service, or health-related facilities
- d. Providing professional development for employees and education for students on topics related to gender inclusion
- e. Encouraging all students and employees to respect the pronoun usage and identities of all members of the College community

San Juan College uses a number of interventions to address concerns that are raised related to gender-based harassment or discrimination, including problem-solving, intervention, confrontation, investigation, and Policy enforcement. When conflicts arise between the right of members of the community to be free from gender-identity discrimination and those exercising their right to religious freedom, the College will try to balance rights and interests to find mutually agreeable outcomes or compromises. When that is not possible, the College will offer remedial solutions or enforce its policies while also respecting the rights of all members of its community.

14.7 Prohibited Conduct

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discrimination, harassment, and retaliation. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections of this Chapter below describe the specific forms of legally prohibited discrimination, harassment, and retaliation that are also prohibited under College Policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of College Policy, though supportive measures will be offered to those

impacted.

A complaint may include a single offense or a pattern of offenses. The Notice of Investigation and Allegation (NOIA) shall clearly indicate that both individual incidents and a pattern of conduct are being investigated. A pattern may exist and be charged when there is a potential substantial similarity to incidents where the proof of one could make it more likely that the other(s) occurred, and vice-versa. Patterns may exist based on target selection, similarity of offense, or other factors. Where a pattern is found, it can be the basis to enhance sanctions accordingly.

Violation of any other College policies may constitute discrimination or harassment when motivated by actual or perceived protected characteristic(s), and the result is a limitation or denial of employment or educational access, benefits, or opportunities.

14.8 Discrimination

Discrimination is different treatment with respect to an individual's employment or participation in an education program or activity based, in whole or in part, upon the individual's actual or perceived protected characteristic. Discrimination also includes allegations of a failure to provide reasonable accommodations as required by law or policy.

Discrimination can take two primary forms, and excludes an individual from participation in, denies the individual benefits of, or otherwise adversely affects a term or condition of an individual's participation in a college program or activity:

1.) Disparate Treatment Discrimination:

Any intentional differential treatment of a person or persons that is based on an individual's actual or perceived protected characteristic.

2.) Disparate Impact Discrimination:

Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person.

14.9 Discriminatory Harassment

Unwelcome conduct on the basis of actual or perceived protected characteristic(s), that based on the totality of the circumstances, is subjectively and objectively offensive, and is so severe or pervasive, that it limits or denies a person's ability to participate in or benefit from the College's education program or activity.

14.10 Sex-based Harassment (Applicable under Title IX, Title VII, and the Fair Housing Act)

Sex-based Harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking.

1) Quid pro quo:

An employee agent, or other person authorized by the College, to provide an aid, benefit, or service under the College's education program or activity, explicitly or impliedly conditioning the provision of such aid, benefit, or service, on a person's participation in unwelcome sexual conduct.

2) Hostile Environment Harassment:

Unwelcome sex-based conduct, that based on the totality of the circumstances, is subjectively and objectively offensive, and is so severe or pervasive, that it limits or denies a person's ability to participate in or benefit from the College's education program or activity.

The College reserves the right to address offensive conduct and/or harassment that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not based on a protected characteristic. Addressing such conduct will not result in the imposition of discipline under College Policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other Informal Resolution mechanisms.

For assistance with Alternative Resolution and other Informal Resolution techniques and approaches, contact the EEO Officer/Title IX/Section 504 Coordinator.

3) Sexual Assault:

A sexual act, including but not limited to Rape, Sodomy, Sexual Assault with an Object, or Fondling directed against another person, without the consent of the victim/complainant, including instances where the victim/complainant is incapable of giving consent because of their age or their temporary or permanent mental or physical incapacity; also unlawful sexual intercourse including incest and statutory rape.

a. Rape:

Penetration

b. Sodomy

Oral or anal penetration, of the Complainant by the Respondent

c. Sexual Assault with an Object

Respondent's use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of the Complainant

d. Fondling:

The touching of the private body parts (breasts, buttocks, groin) of the Complainant by the Respondent or causing the Complainant to touch the Respondent's private body parts intentionally for a sexual purpose

e. Incest:

Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by New Mexico law.

f. Statutory Rape:

Nonforcible sexual intercourse with a person that is under the statutory age of consent in the applicable jurisdiction.

4) Dating Violence:

Violence committed by a Respondent, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant; and where the existence of such a relationship shall be determined based on a consideration of the length and type of relationship, including the frequency of the interaction between the Parties involved in the relationship.

5) Domestic Violence:

Felony or misdemeanor crimes committed by a person who: is a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of New Mexico or a person similarly situated to a spouse of the Complainant; is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; shares a child in common with the Complainant; or commits acts against a youth or adult Complainant who is protected from those acts under the family or domestic violence laws of New Mexico.

6) Stalking:

Engaging in a course of conduct more than one incident on the basis of sex, that is, directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

14.11 Sexual Misconduct (Includes any violations under state and federal laws)

1) Sexual Exploitation:

An individual taking non-consensual or abusive sexual advantage of another, that does not constitute Sex-based Harassment as defined above for their own benefit or for the benefit of anyone other than the person being exploited.

14.12 Other Prohibited Conduct

- 1) **Bullying:**
Repeated and/or severe aggressive behavior that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant.
- 2) **Endangerment:**
Threatening or causing physical harm; extreme verbal, emotional, or psychological abuse; or other conduct which threatens or endangers the health or safety of any person or damages their property.
- 3) **Hazing:**
Any act or action that does or is likely to endanger any individual's mental or physical health or safety as it relates to an individual's initiation, admission into, or affiliation with any San Juan College group or organization.
- 4) **Retaliation:**
Adverse action, including intimidation, threats, coercion, or discrimination, against any person, by San Juan College, a student, employee, or a person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by law or Policy, or because the person has engaged in protected activity, including reporting information, making a complaint, testifying, assisting, or participating or refusing to participate in any manner in an investigation or Resolution Process under the Equal Opportunity, Harassment, and Non-Discrimination Procedures, including an Informal Resolution process, or in any other appropriate steps taken by the College to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects.

The exercise of rights protected under the First Amendment does not constitute retaliation. It is also not retaliation for the College to pursue Policy violations against those who make materially false statements in bad faith in the course of a resolution under the Equal Opportunity, Harassment, and Non-Discrimination Policy. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

- 5) **Unauthorized Disclosure:**
Distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process except as required by law or as expressly permitted by the College; or publicly disclosing a party's personally identifiable information without authorization or consent.
- 6) **Failure to Comply/Process Interference**
 - (a) Intentional failure to comply with

1. the reasonable directives of EEO Officer/Title IX/Section 504 Coordinator in the performance of their official duties, including with the terms of a no-contact order
 2. emergency removal or interim suspension terms
 3. sanctions
 4. mandated reporting duties as defined in this Policy
- (b) Intentional failure to adhere to the terms of an agreement achieved through informal resolution
- (c) Intentional interference with the Title IX resolution process, including but not limited to:
1. Destruction of or concealing of evidence
 2. Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence
 3. Intimidating or bribing a witness or party

14.13 Sanctions

Sanctions for committing, or attempting to commit, any Prohibited Conduct listed in Paragraph 14.8 through 14.12 may include any sanction allowed by the Student Code of Conduct or Student Handbook including written warning through expulsion for students, warning through termination for employees as stated in any applicable handbook, and any level of discipline up to termination allowed for under the CBA for employees subject to the CBA. In the event of a conflict between this Policy and the CBA regarding sanctions, the provisions of the CBA will control.

14.14 Consent, Force, and Incapacitation

As used in this Policy, the following definitions and understandings apply:

1) Consent

Consent is knowing, and voluntary, and clear permission by word or action to engage in sexual activity.

2) Force

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent. Force also includes threats, intimidation and implied threats.

3) Coercion

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person's consent ineffective, because it is not voluntary. It is intended to overcome resistance or produce consent. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

4) Incapacitation

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

Incapacitation is determined through consideration of all relevant indicators of a person's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of this Policy. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

5) The definitions above may be deemed to also include the definition provided to the same term by New Mexico Law to the extent that such definition does not conflict with the above.

14.15 Standard of Proof

San Juan College uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that the College will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent is in violation of the alleged Policy violation(s).

14.16 Reports/Complaints of Discrimination, Harassment, and/or Retaliation

A Report provides notice to San Juan College of an allegation or concern about discrimination, harassment, or retaliation and provides an opportunity for the EEO Officer/Title IX/504 ADA Coordinator to provide information, resources, and supportive measures. A Complaint provides notice to the College that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide at a later time to make a Complaint. Reports or Complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

- 1) File a Complaint with, or give verbal Notice directly to, the EEO Officer/Title IX/Section 504 Coordinator. Such a Complaint may be made at any time (including during non-business hours) by using the telephone number, email address, or by mail to the office address, listed for the EEO Officer/Title IX/Section 504 Coordinator.
EEO Officer/Title IX/Section 504 Coordinator
Educational Services Center Building, 2nd Floor
Human Resources, Room 4243
(505) 566-3515
TitleIX@sanjuancollege.edu
- 2) Report online, using the [Online Reporting Form](#). Anonymous Notice is accepted, but the Notice may give rise to a need to try to determine the Parties' identities. Anonymous Notice typically limits the College's ability to investigate, respond, and provide remedies, depending on what information is shared. Measures intended to protect the community or redress or mitigate harm may be enacted. It also may not be possible to provide supportive measures to Complainants who are the subject of anonymous Notice.
- 3) All San Juan College supervisors, faculty, and staff (including student-employees), other than those deemed Confidential Employees, receives a report of alleged discrimination or sexual harassment, or observes or becomes aware of conduct that may constitute discrimination or sexual harassment, they must immediately contact the EEO Officer/Title IX/Section 504 Coordinator.
- 4) Reporting carries no obligation to initiate a Complaint, and in most situations, San Juan College is able to respect a Complainant's request to not initiate a resolution process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where the College may need to initiate a resolution process. If a Complainant does not wish to file a Complaint, the College will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of confidentiality by giving Notice that allows the College to discuss and/or provide supportive measures, in most circumstances.

A. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the EEO Officer/Title IX/Section 504 Coordinator. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the EEO Officer/Title IX/Section 504 Coordinator's discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

B. False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

Additionally, witnesses and parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process can be subject to discipline under appropriate College policies.

C. Confidentiality/Privacy

College makes every effort to preserve the Parties' privacy. The College will not share the identity of any individual who has made a complaint of harassment, discrimination, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of discrimination, harassment, or retaliation; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation, or resolution proceeding arising under these policies and procedures.

D. Unauthorized Disclosure of Information

Parties and Advisors are prohibited from unauthorized disclosure of information obtained by the College through the Resolution Process, to the extent that information is the work product of the College (meaning it has been produced, compiled, or written by College for purposes of its investigation and resolution of a Complaint). It is also a violation of College Policy to publicly disclose work product or a party's personally identifiable information without authorization or consent. Violation of this Policy is subject to significant sanctions.

E. Emergency Removal/Interim Actions/Leave

The College can act to remove a student Respondent accused of Sex Discrimination or Sex-based Harassment from its education program or activities, partially or entirely, on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator and may be done in conjunction with the Behavioral Intervention Team using its standard risk assessment rubric and procedures. Employees are subject to existing procedures for interim actions and leaves.

F. Federal Timely Warning Obligations

College must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the College community.

The College will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

G. Preservation of Evidence

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders, and it is particularly time-sensitive. The College will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

Sexual Assault

1. Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better).
2. Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
3. If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
4. If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or a secure evidence container (if provided one by law enforcement)
5. Seeking medical treatment can be essential, even if it is not for the purpose of collecting forensic evidence.

Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment

1. Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
 - a. Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
 - b. Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).

2. Save copies of email and social media correspondence, including notifications related to account access alerts.
3. Take timestamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.
4. Save copies of any messages, including those showing any request for no further contact.
5. Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and EEO Officer/Title IX/Section 504 Coordinator, the importance of taking these actions will be discussed, if timely.

H. Federal Statistical Reporting Obligations

Certain institutional officials - those deemed Campus Security Authorities - have a duty to report the following for federal statistical reporting purposes (Clery Act):

- 1) All “primary crimes,” which include criminal homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- 2) Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- 3) Violence Against Women Act (VAWA-based crimes), which include sexual assault, domestic violence, dating violence, and stalking¹; and
- 4) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be shared with the campus Department of Public Safety regarding the type of incident and its general location (on- or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include student affairs/student conduct staff, campus public safety, local police, residence housing staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

I. Independence and Conflicts of Interest

The EEO Officer/Title IX/Section 504 Coordinator manages the Non-Discrimination Team and acts with independence and authority, free from bias and conflicts of interest. The EEO Officer/Title IX/Section 504 Coordinator oversees all resolutions under this policy and these procedures. The members of the Resolution Pool are vetted and trained to ensure they are not

¹ VAWA is the Violence Against Women Act, enacted in 1994 and codified in part at 42 U.S.C. sections 13701 through 14040.

biased for or against any party in a specific complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the EEO Officer/Title IX/Section 504 Coordinator, contact the Vice President of Human Resources and Legal Activities at (505) 566-3516. Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Resolution Pool member should be raised with the EEO Officer/Title IX/Section 504 Coordinator.

J. Revision of this Policy

This Policy succeeds previous policies addressing discrimination, harassment, sexual misconduct, and/or retaliation, though previous policies and procedures remain in force for incidents occurring before August 1, 2024. The EEO Officer/Title IX/Section 504 Coordinator reviews and updates these policies and procedures regularly. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If government laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally.

This Policy is effective August 1, 2024.

14.17 Resolution Process for Alleged Violations of Policy on Equal Opportunity, Harassment, and Non-Discrimination (Hereinafter the “Resolution Process”)

A. Overview

San Juan College will act on any notice, complaint, or knowledge of a potential violation of the Equal Opportunity, Harassment, and Non-discrimination Policy (“the Policy”) that is received by the EEO Officer/Title IX/Section 504 Coordinator or any other Mandated Reporter by applying the Resolution Process below.

The procedures below apply to all allegations of discrimination on the basis of an actual or perceived protected characteristic, harassment, retaliation, or Other Prohibited Conduct as involving students, staff, administrators, faculty members, or third parties. Unionized/other categorized employees are subject to the terms of their agreements/employees’ rights to the extent those agreements do not conflict with federal or state compliance obligations.

B. Notice/Complaint

Upon receipt of Notice, a Complaint, or Knowledge of an alleged Policy violation, the EEO Officer/Title IX/Section 504 Coordinator will initiate a prompt initial evaluation to determine the College's next steps. The EEO Officer/Title IX/Section 504 Coordinator will contact the Complainant/source of the Notice to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.

C. Collateral Misconduct

Collateral misconduct is defined to include potential violations of other College policies not incorporated into the Policy on Equal Opportunity, Harassment, and Nondiscrimination that occur in conjunction with alleged violations of the policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all charges. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures. In such circumstances, the EEO Officer/Title IX/Section 504 Coordinator may consult with College officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of EEO Officer/Title IX/Section 504 Coordinator. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the student, faculty, and staff handbooks.

D. Initial Evaluation

The EEO Officer/Title IX/Section 504 Coordinator conducts an initial evaluation typically within seven (7) business days of receiving notice/complaint/knowledge of alleged misconduct. The initial evaluation typically includes:

1. Assessing whether the reported conduct may reasonably constitute a violation of the policy.
2. If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. It may then be referred to another process, if applicable. Determining whether College has jurisdiction over the reported conduct, as defined in the Policy.
 - a. If the conduct is not within College jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct will be referred to the appropriate College office for resolution.
3. Offering and coordinating supportive measures for the Complainant & Respondent, as applicable.
4. Notifying the Complainant, or the person who reported the allegation(s), of the resolution processes, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below.
5. Determining whether the Complainant wishes to make a Complaint.

6. Notifying the Respondent of the resolution processes, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below, if a Complaint is made.

Helping a Complainant to Understand Options

If the Complainant indicates they wish to initiate a complaint (in a manner that can reasonably be construed as reflecting intent to make a complaint), the EEO Officer/Title IX/Section 504 Coordinator will help to facilitate the complaint, which will include:

Working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options:

1. a supportive and remedial response, and/or
2. Informal Resolution, or
3. the Resolution Process described below.

The EEO Officer/Title IX/Section 504 Coordinator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.

If the Complainant elects for the resolution process below, and the EEO Officer/Title IX/Section 504 Coordinator has determined the policy applies and that the College has jurisdiction, they will route the matter to the appropriate resolution process, will provide the Parties with a Notice of Investigation and Allegation(s), and will initiate an investigation consistent with these Procedures.

If any Party indicates (either verbally or in writing) that they want to pursue an Informal Resolution option, the EEO Officer/Title IX/Section 504 Coordinator will assess whether the matter is suitable for Informal Resolution and refer the matter, accordingly.

If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the EEO Officer/Title IX/Section 504 Coordinator), though the Complainant can elect to initiate one later, if desired.

EEO Officer/Title IX/Section 504 Coordinator Authority to Initiate a Complaint

If the Complainant does not wish to file a complaint, the EEO Officer/Title IX/Section 504 Coordinator, who has ultimate discretion as to whether a complaint is initiated, will offer supportive measures and determine whether to initiate a complaint themselves. To make this determination, the EEO Officer/Title IX/Section 504 Coordinator will evaluate that request to determine if there is a serious and imminent threat to someone's safety or if the College cannot ensure equal access without initiating a Complaint. The EEO Officer/Title IX/Section 504 Coordinator will consider the following non-exhaustive factors to determine whether to file a Complaint:

- a. The Complainant's request not to proceed with initiation of a complaint;
- b. The Complainant's reasonable safety concerns regarding initiation of a complaint;
- c. The risk that additional acts of discrimination would occur if a complaint is not initiated;
- d. The severity of the alleged discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- e. The age and relationship of the Parties, including whether the Respondent is a college employee;
- f. The scope of the alleged discrimination, including information suggesting a pattern, ongoing discrimination, or discrimination alleged to have impacted multiple individuals;
- g. The availability of evidence to assist a Decision-maker in determining whether discrimination occurred;
- h. Whether the College could end the alleged discrimination and prevent its recurrence without initiating its resolution process.

If deemed necessary, the EEO Officer/Title IX/Section 504 Coordinator may consult with appropriate College employees, and/or a standard risk assessment rubric conducted by the Behavioral Intervention Team (BIT) to aid their determination of whether to initiate a Complaint.

When the EEO Officer/Title IX/Section 504 Coordinator initiates a complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this Policy.

14.18 Dismissal

The College may dismiss a complaint if, at any time during the investigation or Resolution Process, one or more of the following grounds are met:

- 1) The College is unable to identify the Respondent after taking reasonable steps to do so
- 2) The College no longer enrolls or employs the Respondent
- 3) A Complainant voluntarily withdraws any or all of the allegations in the complaint, and the EEO Officer/Title IX/Section 504 Coordinator declines to initiate a complaint
- 4) The College determines the conduct alleged in the complaint would not constitute a Policy violation, if proven

A Decision-maker can recommend dismissal to the EEO Officer/Title IX/Section 504 Coordinator, if they believe the grounds are met. A Complainant who decides to withdraw a complaint may later request to reinstate or refile it.

Upon any dismissal, the College will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, the College will also notify the Respondent of the dismissal.

This dismissal decision is appealable by any party.

14.19 Appeal of Dismissal

The Complainant may appeal a dismissal of their complaint. The Respondent may also appeal the dismissal of the complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal.

The EEO Officer/Title IX/Section 504 Coordinator will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the complaint, the EEO Officer/Title IX/Section 504 Coordinator must then provide the Respondent with a NOIA and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

Throughout the dismissal appeal process, the College will:

- Implement dismissal appeal procedures equally for the Parties;
- Assign a trained Dismissal Appeal Officer who did not take part in an investigation of the allegations or dismissal of the Complaint;
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal; and
- Notify the Parties of the result of the appeal and the rationale for the result.

The grounds for dismissal appeals are limited to:

- 1) Procedural irregularity that would change the outcome;
- 2) New evidence that would change the outcome and that was not reasonably available when the dismissal was decided;
- 3) The EEO Officer/Title IX/Section 504 Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.
- 4) [The dismissal was erroneously granted or denied]

Upon receipt of a dismissal appeal in writing from one or more Parties, the EEO Officer/Title IX/Section 504 Coordinator will share the petition with the other party and provide three (3) business days for other Parties to respond to the request. The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. This appeal will be provided in writing to the other Parties, and the EEO Officer/Title IX/Section 504 Coordinator, who will be invited to respond in writing. At the conclusion of the response period, the EEO Officer/Title IX/Section 504 Coordinator will forward the appeal, as well as any response provided by the other Parties to the Dismissal Appeal Officer for consideration.

If the request for appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Dismissal Appeal Officer, and the Parties, their Advisors, and the

EEO Officer/Title IX/Section 504 Coordinator will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the Dismissal Appeal Officer will notify all Parties and their Advisors, and the EEO Officer/Title IX/Section 504 Coordinator, of their decision and rationale in writing. The effect will be to reinstate the Complaint.

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Officer has ten (10) business days to review and decide on the appeal, though extensions can be granted at the discretion of the EEO Officer/Title IX/Section 504 Coordinator, and the Parties will be notified of any extension.

Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so.

The Dismissal Appeal Officer may consult with the EEO Officer/Title IX/Section 504 Coordinator and/or legal counsel on questions of procedure or rationale for clarification, if needed. The EEO Officer/Title IX/Section 504 Coordinator will maintain documentation of all such consultation.

14.20 Emergency Removal/Leave, Counter-Claims and Advisors

A. Interim Suspension of a Student

The College may emergency remove a student accused of sex discrimination or sex-based harassment upon receipt of notice/knowledge, a complaint, or at any time during the resolution process. Prior to an emergency removal, the College will conduct a standard risk assessment conducted by the Behavioral Intervention Team (BIT) and may remove the student if that assessment determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies such action. Students accused of other forms of discrimination (not sex) are subject to interim suspension, which can be imposed for safety reasons.

When an emergency removal or interim suspension is imposed, wholly or partially, the affected student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal or interim suspension within three (3) business days of the notification. Upon receipt of a challenge, the EEO Officer/Title IX/Section 504 Coordinator will meet with the student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension is

appropriate, should be modified, or lifted. When this meeting is not requested within three (3) business days, objections to the emergency removal or interim suspension will be deemed waived. A student can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed. A Complainant and their Advisor may be permitted to participate in this meeting if the EEO Officer/Title IX/Section 504 Coordinator determines it is equitable to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the EEO Officer/Title IX/Section 504 Coordinator for review.

An emergency removal or interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The EEO Officer/Title IX/Section 504 Coordinator will communicate the final decision in writing, typically within five (5) business days of the review meeting.

B. Placing an Employee on Leave

When the Respondent is an employee or a student employee accused of misconduct in the course of their employment, existing provisions in the Staff Handbook, Chapter 6.17, Administrative Leave for interim action, are typically applicable instead of the above emergency removal process. Procedures for unionized employees can be found in the CBA.

C. Counter-Complaints

The College is obligated to ensure that the resolution process is not abused for retaliatory purposes. Although the College permits the filing of counter-complaints, the EEO Officer/Title IX/Section 504 Coordinator will use an initial evaluation described above to assess whether the allegations in the counter-complaint are made in good faith. When counter-complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a violation of the Policy.

Counter-complaints determined to have been reported in good faith will be processed using the Resolution Process below. At the EEO Officer/Title IX/Section 504 Coordinator's discretion, investigation of such claims may take place concurrently or after resolution of the underlying initial Complaint.

D. Advisors in the Resolution Process

1) Who Can Serve as an Advisor?

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews, and hearings within the Resolution Process, including intake. The Parties may select

whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.

The EEO Officer/Title IX/Section 504 Coordinator will offer to assign a trained Advisor to any party if the party chooses. If the parties choose a College Advisor, the College will have trained the Advisor and familiarized them with the College's Resolution Process.

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 to advise that party.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the EEO Officer/Title IX/Section 504 Coordinator with timely notification if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

The College may permit parties to have more than one Advisor, or an Advisor and a support person, upon special request to the EEO Officer/Title IX/Section 504 Coordinator. The decision to grant this request is at the EEO Officer/Title IX/Section 504 Coordinator's sole discretion and will be granted equitably to all Parties.

If a party requests that all communication be made through their attorney Advisor instead of to the party, the College will agree to copy both the party and their Advisor on all communications.

Advisors appointed by the institution cannot be confidential employees, and although they will not be asked to disclose details of their interactions with their advisees to institutional officials or Decision-makers absent an emergency, they are still reminded of their Mandated Reporter responsibilities.

2) Advisor's Role in the Resolution Process

Advisors should help the Parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.

The Parties are expected to ask and respond to questions on their own behalf throughout 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.

3) Records Shared with Advisors

Advisors are entitled to the same opportunity as their advisee to access relevant evidence, and/or the same written investigation report that accurately summarizes this evidence.

Advisors are expected to maintain the confidentiality of the records the College shares with them, the Reports/Complaints of Discrimination, Harassment, and/or Retaliation section of the policy addressing confidentiality. Advisors may not disclose any College work product or evidence the College obtained solely through the Resolution Process for any purpose not explicitly authorized by the College.

4) Advisor Expectations

The College generally expects an Advisor to adjust their schedule to allow them to attend College meetings/interviews when planned, but the College may change scheduled meetings/interviews to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The College may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview by telephone, video conferencing, or other similar technologies.

All Advisors are subject to the same College policies and procedures, whether they are attorneys or not, and whether they are selected by a party or appointed by the College. Advisors are expected to advise their advisees without disrupting proceedings.

5) Advisor Policy Violations

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with the College's established rules of decorum, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview may be ended, or other appropriate measures implemented, including the College requiring the party to use a different Advisor or providing a different College-appointed Advisor. Subsequently, the EEO Officer/Title IX/Section 504 Coordinator will determine how to address the Advisor's non-compliance and future role.

14.21 Resolution Option Overview

This Resolution Process, consisting of Informal or Administrative Resolution, is the College's chosen approach to addressing all forms of discrimination based on protected characteristics, harassment, and retaliation. The process considers the Parties' preferences but is ultimately determined at the EEO Officer/Title IX/Section 504 Coordinator's discretion.

Resolution proceedings are confidential. All individuals present at any time during the resolution process are expected to maintain the confidentiality of the proceedings in accordance with College Policy.

A. Informal Resolution

To initiate Informal Resolution, a Complainant or Respondent may request it from the EEO Officer/Title IX/Section 504 Coordinator at any time prior to a final determination, or the EEO Officer/Title IX/Section 504 Coordinator may offer the option to the Parties in writing. The College will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

Before initiation of an Informal Resolution process, College will provide the Parties with a NOIA that explains:

1. The allegations;
2. The requirements of the Informal Resolution process;
3. That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume the College's Resolution Process;
4. That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will preclude the Parties from initiating or resuming the resolution process arising from the same allegations;
5. The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties; and
6. What information the College will maintain, and whether and how it could disclose such information for use in its Resolution Process.

College offers four categories of Informal Resolution:

- 1) **Supportive Resolution.** When the EEO Officer/Title IX/Section 504 Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation.
- 2) **Educational Conversation.** When the EEO Officer/Title IX/Section 504 Coordinator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and College 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(s) and College are agreeable to the resolution terms.
- 4) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, facilitated dialogue, etc.), as described below.

It is not necessary to pursue Informal Resolution first in order to pursue an Administrative Resolution Process. Any party participating in Informal Resolution can withdraw from the

Informal Resolution Process at any time and initiate or resume the Administrative Resolution Process.

If an investigation is already underway, the EEO Officer/Title IX/Section 504 Coordinator has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

Categories of Informal Resolution

1. Supportive Resolution

The EEO Officer/Title IX/Section 504 Coordinator will meet with the Complainant to determine reasonable supportive measures that are designed to restore or preserve the Complainant's access to the College's education program and activity. Such measures can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the EEO Officer/Title IX/Section 504 Coordinator may also provide reasonable supportive measures for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the EEO Officer/Title IX/Section 504 Coordinator does not initiate a Complaint.

2. Educational Conversation

The Complainant(s) may request that the EEO Officer/Title IX/Section 504 Coordinator address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and institutional policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the Informal Resolution for the matter, if it takes place. In light of this conversation, or the Respondent's decision not to attend, the EEO Officer/Title IX/Section 504 Coordinator may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of recurrence of any behaviors that may not align with Policy.

3. Accepted Responsibility

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for all alleged Policy violations, the ongoing process will be paused, and the EEO Officer/Title IX/Section 504 Coordinator will determine whether Informal Resolution is an option.

If Informal Resolution is available, the EEO Officer/Title IX/Section 504 Coordinator will determine whether all Parties and the College are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the EEO

Officer/Title IX/Section 504 Coordinator implements the accepted finding that the Respondent is in violation of College policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate administrator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Resolution Process will either continue or resume.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

4. Alternative Resolution

The institution offers a variety of Alternative Resolution mechanisms to best meet the specific needs of the parties and the nature of the allegations. Alternative Resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the EEO Officer/Title IX/Section 504 Coordinator or other appropriate College officials; and other forms of resolution that can be tailored to the needs of the parties. Some Alternative Resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an Alternative Resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an Alternative Resolution process.

The EEO Officer/Title IX/Section 504 Coordinator may consider the following factors to assess whether Alternative Resolution is appropriate, or which form of Alternative Resolution may be most successful for the Parties:

- a. The Parties' amenability to Alternative Resolution
- b. Likelihood of potential resolution, considering any power dynamics between the Parties
- c. The nature and severity of the alleged misconduct
- d. The Parties' motivation to participate
- e. Civility of the Parties
- f. Results of a violence risk assessment/ongoing risk analysis
- g. Respondent's disciplinary history
- h. Whether an emergency removal or other interim action is needed
- i. Skill of the Alternative Resolution facilitator with this type of Complaint
- j. Complaint complexity
- k. Emotional investment/capability of the Parties
- l. Rationality of the Parties
- m. Goals of the Parties

- n. Adequate resources to invest in Alternative Resolution (e.g., time, staff, etc.)

The EEO Officer/Title IX/Section 504 Coordinator has the authority to determine whether Alternative Resolution is available or successful, to facilitate a resolution that is acceptable to all parties, and/or to accept the parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the Alternative Resolution process. The EEO Officer/Title IX/Section 504 Coordinator will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the Alternative Resolution.

The EEO Officer/Title IX/Section 504 Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the Agreement and resumption of the Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the Agreement, etc.). The results of Complaints resolved by Alternative Resolution are not appealable.

If an Informal Resolution option is not available or selected, the College will initiate or continue an investigation and subsequent Resolution Process to determine whether the Policy has been violated.

B. Administrative [Hearing] Resolution Process

1. Resolution Process Pool

The Resolution Process relies on a pool of administrators ("the Pool") to carry out the process.

Members of the Pool are trained annually, and can serve in the following roles, at the discretion of the EEO Officer/Title IX/Section 504 Coordinator:

- a. Appropriate intake of and initial guidance pertaining to complaints
- b. Advisor to Parties
- c. Informal Resolution Facilitator
- d. Perform or assist with initial evaluation
- e. Investigator
- f. Hearing Facilitator
- g. Decision-makers including for challenges to emergency removal and supportive measures, Appeals of Dismissal, and Appeals.

The EEO Officer/Title IX/Section 504 Coordinator, in consultation with appropriate administrators as necessary, appoints the pool, which acts with independence and impartiality. Although members of the pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different complaints, the College can also designate permanent roles for individuals in the pool.

2. Notice of Investigation and Allegations

Prior to an investigation, the EEO Officer/Title IX/Section 504 Coordinator will provide the parties with a detailed written NOIA. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA typically includes:

- a. A meaningful summary of all allegations
- b. The identity of the involved Parties (if known)
- c. The precise misconduct being alleged
- d. The date and location of the alleged incident(s) (if known)
- e. The specific policies/offenses implicated
- f. A description of, link to, or copy of the applicable procedures
- g. A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- h. The name(s) of the Investigator(s), along with a process to identify to the EEO Officer/Title IX/Section 504 Coordinator, in advance of the interview process, any conflict of interest that the Investigator(s) may have
- i. A statement that the College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- j. A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence
- k. A statement that retaliation is prohibited
- l. Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share College work product obtained through the Resolution Process
- m. A statement that the Parties may have an Advisor of their choice who may accompany them through all steps of the Resolution Process
- n. A statement informing the Parties that the College's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- o. Detail on how a party may request disability accommodations during the Resolution Process
- p. A link to the College's VAWA Brochure
- q. An instruction to preserve any evidence that is directly related to the allegations

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(es) of the Parties as indicated in official College records, or emailed to the Parties' College-issued email or designated accounts. Once mailed, emailed, and/or received in person, the notification will be presumptively delivered.

3. Resolution Timeline

College will make a good faith effort to complete the resolution process within sixty to ninety (60-90) business days, including any appeals, which can be extended as necessary for appropriate cause by the EEO Officer/Title IX/Section 504 Coordinator. The Parties will receive updates on the progress of the resolution process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

If a party or witness chooses not to participate in the resolution process or becomes unresponsive, the College reserves the right to continue but has no obligation without their participation to ensure a prompt resolution. Non-participatory or unresponsive parties retain the rights outlined in this policy and the opportunity to participate in the resolution process.

The College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. The College will promptly resume its resolution process as soon as feasible. During such a delay, College will implement and maintain supportive measures for the parties as deemed appropriate.

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.

The College will make a good faith effort to complete the resolution process as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the process.

4. Ensuring Impartiality

Any individual materially involved in the administration of the resolution process, including the EEO Officer/Title IX/Section 504 Coordinator, Investigator(s), and Decision-maker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The EEO Officer/Title IX/Section 504 Coordinator will vet the assigned Investigator(s), Decision-maker(s), and Appeals officers for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the resolution process, the parties may raise a concern regarding bias or conflict of interest, and the EEO Officer/Title IX/Section 504 Coordinator will determine whether the concern is reasonable and supportable. If so, another pool 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 EEO Officer/Title IX/Section 504 Coordinator, concerns should be raised with the Vice President for Human Resources and Legal Activities.

The resolution process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, 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. All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence.

5. Investigator Appointment

Once an investigation is initiated, the EEO Officer/Title IX/Section 504 Coordinator appoints an Investigator(s) to conduct it. These Investigators may be members of the resolution process pool, or any other properly trained Investigator, whether internal or external to the College's community.

6. Witness Role and Participation in the Investigation

Employees (not including Complainant and Respondent) are required to cooperate with and participate in the College's investigation and resolution process. Student witnesses and witnesses from outside the College community cannot be required to participate but are encouraged to cooperate with College investigations and to share what they know about a Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx, etc.), or, in limited circumstances, by telephone. The College will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

7. Interview Recording

It is standard practice for Investigators to create record of all interviews pertaining to the Resolution Process (other than Informal Resolution meetings). The Parties may review copies of their own interviews, upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings. If an Investigator(s) elects to audio and/or video record interviews, all involved individuals should be made aware of audio and/or video recording.

8. Evidentiary Considerations

The Investigator(s) and the Decision-maker(s) will only consider evidence that is deemed relevant and not otherwise impermissible.

Relevant evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of Policy.

Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or 2) is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent.

The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that sex-based harassment occurred.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

Within the limitations stated above, the investigation and determination can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

9. Respondent Admits Responsibility

At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Decision-maker is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. This would also waive all rights to appeal for the Respondent. If the Respondent rejects the finding/final determination/sanctions, or does not admit to all conduct charged, the Resolution Process continues to its conclusion.

10. Investigation

All investigations are adequate, thorough, reliable, impartial, prompt, and fair. They involve interviews with all relevant parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.

After an interview, parties and witnesses will be asked to verify the accuracy of summary of their interview. They may submit changes, edits, or clarifications. If the parties or witnesses do not

respond within the time period designated for verification, objections to the accuracy of the summary will be deemed to have been waived, and no changes will be permitted.

The College may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

The Investigator(s) typically take(s) the following steps, if not already completed and not necessarily in this order:

- a. Determine the identity and contact information of the Complainant.
- b. Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all specific policies implicated.
- c. Assist the EEO Officer/Title IX/Section 504 Coordinator, if needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy violation.
- d. Work with the EEO Officer/Title IX/Section 504 Coordinator, as necessary, to prepare the initial Notice of Investigation and Allegations (NOIA). The NOIA may be amended with any additional or dismissed allegations.
- e. 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 the parties and witnesses.
- f. When participation of a party is expected, provide that party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose.
- g. Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible.
- h. Interview the Complainant and the Respondent and conduct follow-up interviews with each, as necessary.
- i. Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- j. Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript or recording) of the relevant evidence/testimony from their respective interviews and meetings.
- k. Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another party and/or witnesses. Document in the investigation report which questions were asked, with a rationale for any changes or omissions.
- l. Where possible, complete the investigation promptly and without unreasonable deviation from the intended timeline.
- m. Provide the parties with regular status updates throughout the investigation.
- n. Prior to the conclusion of the investigation, provide the parties and their respective Advisors with a list of witnesses whose information will be used to render a finding.
- o. Ask the Parties to provide a list of questions they would like asked of the other party or any witnesses. The Investigator will ask those questions deemed relevant, and for any question deemed not relevant, will provide a rationale for not asking the question.

- p. Write a draft investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation, and party and witness interviews, and provides all relevant evidence.
- q. Provide the Parties and their respective Advisors an electronic copy of the draft investigation report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of ten (10) business days so that each party may meaningfully respond to the evidence. The Parties may elect to waive all or part of the review period.
- r. The Investigator may share the investigation report with the EEO Officer/Title IX/Section 504 Coordinator and/or legal counsel for their review and feedback.

11. Administrative Resolution Process

The Administrative Resolution Process is used for all Complaints of discrimination on the basis of protected characteristics, harassment, retaliation, and Other Prohibited Behaviors (as defined in Policy) or when Informal Resolution is either not elected or is unsuccessful.

The Administrative Resolution Process consists of a hand-off of the investigation report and all relevant evidence to the Decision-maker to make a finding and determine sanctions (if applicable).

Once the Decision-maker receives and reviews the file, they can recommend dismissal to the EEO Officer/Title IX/Section 504 Coordinator, if they believe the grounds are met.

The Administrative Resolution Process typically takes approximately thirty (30) business days to complete, beginning with the Decision-maker's receipt of the Draft Investigation Report. The Parties will be updated regularly on the timing and any significant deviation from this typical timeline.

Investigator-led Questioning Meetings

1. The EEO Officer/Title IX/Section 504 Coordinator provides the Draft Investigation Report to the Decision-maker and the parties simultaneously for review. The Decision-maker can then provide the Investigator with a list of relevant questions to ask the parties or any witnesses. To the extent credibility is in dispute and relevant to one or more of the allegations, the questions provided by the Decision-maker may also explore credibility.
2. The Investigator will also ask each of the Parties to provide a proposed list of questions to ask the other Parties and any witnesses.
 - a. To the extent credibility is in dispute and relevant to one or more of the allegations, questions proposed by the Parties may also explore credibility.
 - b. All party questions must be posed during this phase of the process and cannot be posed later unless authorized by the Decision-maker.
 - c. The Investigator will share all party-proposed questions with the Decision-maker, who will finalize the list with the Investigator to ensure all questions are both relevant and permissible.
3. Typically, within three (3) business days of the last of these meetings, the interview summaries or recordings will be provided to the parties for their review. The parties will

then have five (5) business days to review the interview summaries or recordings and propose follow-up questions to be asked by the Investigator.

4. The Investigator will review the proposed questions with the Decision-maker, to determine relevance and permissibility. If deemed necessary, the Investigator will then meet individually with the parties or witnesses for whom there are relevant, and not duplicative, follow-up questions. These follow-up meetings may be recorded, and the parties will receive the recordings or transcripts of these meetings. This final round of questioning is the last such round permitted, unless leave is granted to extend, by the Decision-maker.
5. The Investigator will then incorporate any new, relevant evidence and information obtained through the Parties' review of the Draft Investigation Report, the questioning, and follow-up meetings into a Final Investigation Report.
6. The Investigator will also respond in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report and incorporate relevant elements of the parties' written responses, additional relevant evidence, and any necessary revisions into the Final Investigation Report.
7. The Investigator will then share the investigation report with the EEO Officer/Title IX/Section 504 Coordinator and/or legal counsel for their review and feedback.
8. The Final Investigation Report and investigation file will then be provided to the EEO Officer/Title IX/Section 504 Coordinator.

The Decision-maker's Determination

1. The EEO Officer/Title IX/Section 504 Coordinator will provide the Decision-maker with the Final Investigation Report and investigation file, including the evidence and information obtained through the Investigator-led Questioning meetings.
2. The Decision-maker will review the FIR, all appendices, and the investigation file.
3. If the record is incomplete, the Decision-maker may direct a re-opening of the investigation or may direct or conduct any additional inquiry necessary, including informally meeting with the Parties or any witnesses, if needed.
4. Upon reviewing the relevant evidence, the Decision-maker may also choose to pose additional questions:
 - a. To the extent credibility is in dispute and relevant to one or more of the allegations, the Decision-maker may meet individually with the Parties.
 - b. At their discretion, the Decision-maker may also meet with any party or witness to ask additional relevant questions that will aid the Decision-maker in making their findings. These meetings may be recorded and shared with the Parties.
5. The Decision-maker will then apply the preponderance of the evidence standard to make a determination on each of the allegations and, if applicable, any attendant sanctions.
6. **Timeline.** The Decision-maker's determination process typically takes approximately ten (10) business days, but this timeframe can vary based on a number of factors and variables, The Parties will be notified of any delays.
7. **Impact Statements.** Prior to a determination, the EEO Officer/Title IX/Section 504 Coordinator may also provide the parties an opportunity to submit a written impact and/or mitigation statement. The EEO Officer/Title IX/Section 504 Coordinator will review these statements upon receipt to determine whether there are any immediate needs, issues, or concerns, but will otherwise hold them until after the Decision-maker

has made determinations on the allegations. If there are any findings of a policy violation, the Decision-maker will request the Impact Statements from the EEO Officer/Title IX/Section 504 Coordinator and review them prior to determining sanctions. They will also be exchanged between the parties at that time.

8. If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a resolution process at any time, and/or referring that information to another process for resolution.

12. Proposed Sanctions

Factors considered by the Decision-maker when determining sanctions and responsive actions may include, but are not limited to:

- a. The nature, severity of, and circumstances surrounding the violation(s)
- b. The Respondent's disciplinary history
- c. The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- d. The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- e. The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- f. The impact on the Parties
- g. Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

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.

13. Notice of Outcome

Within ten (10) business days of the conclusion of the Resolution Process, the EEO Officer/Title IX/Section 504 Coordinator provides the parties with a written outcome notification. The outcome notification will specify the finding for each alleged Policy violation, any applicable sanctions that the College is permitted to share pursuant to state or federal law, and a detailed rationale, written by the Decision-maker, supporting the findings to the extent the College is permitted to share under federal or state law.

The notification will also detail the parties' equal rights to appeal, the grounds for appeal, the steps to take to request an appeal, and when the determination is considered final if neither party appeals.

The EEO Officer/Title IX/Section 504 Coordinator will provide the parties with the outcome notification simultaneously, or without significant time delay between notifications. The written outcome notification 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-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

1) Withdrawal or Resignation Before Complaint Resolution

a. Students

Should a student Respondent decide not to participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from the College, the resolution process may continue, or EEO Officer/Title IX/Section 504 Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, College will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, College will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to the College in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the EEO Officer/Title IX/Section 504 Coordinator has discretion to dismiss the Complaint. The Registrar and Office of Admissions will be notified, accordingly.

If the student Respondent takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely. If found in violation, that student is not permitted to return to College unless and until all sanctions, if any, have been satisfied.

b. Employees

Should an employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution if possible. If an employee Respondent withdraws from the College with unresolved allegations pending, the Resolution Process may continue, or EEO Officer/Title IX/Section 504 Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, the College may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

14. Appeal of the Determination

The EEO Officer/Title IX/Section 504 Coordinator will designate a three-member Appeal Panel, or a single Appeal Decision-maker chosen from the Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker(s) will have been previously involved in the resolution process for the Complaint, including in any supportive measure or dismissal appeal that may have been heard earlier in the process. If a panel is used, a voting Chair of the Appeal Panel will be designated by the EEO Officer/Title IX/Section 504 Coordinator. In the event of a conflict between this Policy and the CBA regarding appeal rights, the provisions of the CBA addressing appeal rights will be in addition to the appeal rights listed under this Policy.

A. Appeal Grounds

Appeals are limited to the following grounds:

- 1) A procedural irregularity that would change the outcome
- 2) New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility or dismissal was made
- 3) The EEO Officer/Title IX/Section 504 Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that would change the outcome
- 4) The final determination by the Decision-maker is substantially contrary to the weight of the evidence in the record (applicable to sanctions of suspension, expulsion, or termination, only)
- 5) The sanctions fall outside the range of sanctions designated for this offense, considering the cumulative conduct/disciplinary record of the Respondent (applicable to sanctions of suspension, expulsion, or termination, only)

B. Request for Appeal

Any party may submit a written request for appeal (“Request for Appeal”) to the EEO Officer/Title IX/Section 504 Coordinator within five (5) business days of the delivery of the Notice of Outcome.

The Request for Appeal will be forwarded to the Appeal Panel or Decision-maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Appeal Panel Chair or Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Panel Chair or Decision-maker will notify all Parties and their Advisors, the EEO Officer/Title IX/Section 504 Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties and their Advisors, the EEO Officer/Title IX/Section 504 Coordinator, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Panel Chair or Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that Request for Appeal will be reviewed by the Appeal Panel Chair or Decision-maker to determine if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the EEO Officer/Title IX/Section 504 Coordinator, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties will be notified accordingly, in writing.

No party may submit any new Requests for Appeal after this time period. The Appeal Panel Chair or Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Panel or Decision-maker, who will promptly render a decision.

C. Appeal Determination Process

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeals Panel or Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, 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. All decisions are made by majority vote and apply the preponderance of the evidence.

An appeal is not an opportunity for the Appeal Panel or Decision-makers to substitute their judgment for that of the original Decision-maker merely because they disagree with the finding and/or sanction(s).

The Appeal Panel or Decision-maker may consult with the EEO Officer/Title IX/Section 504 Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The EEO Officer/Title IX/Section 504 Coordinator will maintain documentation of all such consultation.

D. Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-maker or the EEO Officer/Title IX/Section 504 Coordinator (as in cases of bias), the Appeal Panel or Decision-maker may order a new investigation and/or a new determination with new Pool members serving in the Investigator and Decision-maker roles.

A Notice of Appeal Outcome letter will be sent to all parties simultaneously, or without significant time delay between notifications. The appeal outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which the College is permitted to share according to federal or state law, and the rationale supporting the essential findings to the extent the College is permitted to share under federal or state law.

Written notification 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-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, the appeal outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.

If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed once on any of the five available appeal grounds.

E. Sanction Status During the Appeal

Any sanctions imposed as a result of the determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal procedures (detailed above) for a "show cause" meeting on the justification for doing so must be permitted within two (2) business days of implementation.

15. Long-Term Remedies/Other Actions

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the EEO Officer/Title IX/Section 504 Coordinator

may implement additional long-term remedies or actions with respect to the Parties and/or the College community that are intended to stop the discrimination, harassment, and/or retaliation, remedy the effects, and prevent recurrence.

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

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the EEO Officer/Title IX/Section 504 Coordinator, certain long-term supportive measures may also be provided to the parties even if no policy violation is found.

When no Policy violation is found, the EEO Officer/Title IX/Section 504 Coordinator will address any remedies the College owes the Respondent to ensure no effective denial of educational access.

The College will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair the College's ability to provide these services.

16. Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-maker(s), including the Appeal Panel or Decision-maker or the Informal Resolution agreement.

Failure to abide may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the College.

Supervisors are expected to enforce the completion of sanctions/responsive actions for their employees.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the EEO Officer/Title IX/Section 504 Coordinator's satisfaction.

17. Recordkeeping

For a period of at least seven (7) years following the conclusion of the resolution process, College will maintain records of:

- 1) Each discrimination, harassment, and retaliation resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation
- 2) Any disciplinary sanctions imposed on the Respondent
- 3) Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to the College's education program or activity
- 4) Any appeal and the result therefrom
- 5) Any Informal Resolution and the result therefrom
- 6) All materials used to provide training to the EEO Officer/Title IX/Section 504 Coordinator, Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitator, and any person who is responsible for implementing the College's Resolution Process, or who has the authority to modify or terminate supportive measures. College will make these training materials available for review upon request.
- 7) All materials used to train all employees consistent with the requirements in the Title IX Regulations.

College will also maintain any and all records in accordance with state and federal laws.

18. Accommodations and Support During the Resolution Process

Disability Accommodations

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 EEO Officer/Title IX/Section 504 Coordinator, who will work with disability support colleagues as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

Other Support

College will also address reasonable requests for support for the Parties and witnesses, including:

- a. Language services/Interpreters
- b. Access and training regarding use of technology throughout the resolution process
- c. Other support as deemed reasonable and necessary to facilitate participation in the resolution process

19. Revision of these Procedures

These procedures succeed any previous procedures addressing discrimination, harassment, and retaliation for incidents occurring on or after August 1, 2024. The EEO Officer/Title IX/Section 504 Coordinator will regularly review and update these procedures. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If governing laws or regulations change, or court decisions alter, the requirements in a way that impacts this document, this document will be construed to comply with the most recent governing laws or regulations or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally.

These procedures are effective August 1, 2024.

BASED ON THE ATIXA 2024 ONE POLICY, ONE PROCEDURE (1P1P) MODEL.
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