



ACCREDITATION EVIDENCE

Title: Procedure 5420E: Sexual Misconduct & Discrimination (Title IX)

Evidence Type: Corroborating

Date: 8 October 2020

WAN: 22-0211

Classification: Procedure

PII: No

Redacted: No



Sexual Misconduct, Harassment & Discrimination (Title IX)

Table of Contents

I. Introduction

A. Statement of Purpose.....	3
B. Title IX Coordinator.....	4
C. Reporting Misconduct and/or Discrimination.....	6
D. Jurisdiction.....	7
E. Prevention and Education.....	8
F. Policy and Procedure Review and Revision.....	8

II. Prohibited Conduct

A. Sexual Misconduct.....	8
1. Sexual Harassment.....	9
2. Non-Consensual Sexual Intercourse.....	9
3. Non-Consensual Sexual Contact.....	9
B. Sexual Exploitation.....	9
C. Force, Coercion, and Consent.....	10
1. Force.....	10
2. Coercion.....	10
3. Consent.....	10
a. Incapacitation.....	11
D. Other Possible Title IX Violations.....	11

III. Additional Title IX Information and Processes

A. Confidentiality & Privacy.....	13
1. Confidentiality Rights to Parties.....	14
2. Privacy.....	14
B. Interim Action/Responsive Measures.....	15
C. Federal Timely Warning.....	16
D. False Allegations.....	16
E. Amnesty.....	16
F. Timeliness of Report.....	17
G. Parental Notification.....	17
H. Statistical Reporting.....	17

IV. Title IX Investigation Process & Procedure

A. Procedural Overview..... 18

 1. Reporting Misconduct and/or Discrimination..... 19

 2. Preliminary Inquiry & Responsibility to Investigate..... 19

 3. Withdrawing a Complaint..... 20

 4. Choosing Investigators..... 20

 5. Cooperation with Investigation and Disciplinary Procedures... 21

 6. Advocates..... 21

 7. Investigative Procedure..... 22

 8. Sanctions..... 26

 a. Student..... 26

 b. Employee..... 27

 c. Determining Sanctions..... 27

 9. Withdrawal or Resignation While Pending Action..... 28

 10. Long-Term Remedies and Actions..... 28

 11. Failure to Comply or Complete Sanctions..... 28

 12. Disciplinary Procedures (Non-Members of Campus
 Community)..... 28

 13. Appeal..... 29

 14. Records..... 29

V. Statement of Rights

A. Accommodation for Disabilities..... 30

B. Party Rights..... 30

Adopted: January 18, 1996

Reformatted: May 5, 2011

Revised: January 14, 2016

Reformatted: March 17, 2017

Revised: October 8, 2020

Title IX Compliance: Sexual Misconduct, Harassment, and Discrimination

Reference: Title IX of the Educational Amendments of 1972, Jeanne Clery Act, Violence Against Women Act.

In accordance with Title IX, the College does not tolerate sex or gender discrimination, including sexual misconduct such as sexual harassment and sexual violence, stalking, and relationship violence in the College's educational program and activities. Also prohibited under Title IX is any rule violated on the basis of the recipient's gender identity and/or perceived gender, which is severe enough to cause discriminatory effect.

This procedure applies to students, faculty, staff, and third parties (i.e., nonmembers of the campus community, such as vendors, alumni, visitors, or local residents). Individuals for whom Title IX procedures are implemented will be termed complainants and those accused of violating Title IX policy will be termed respondents. Implementation of this procedure is guided by information provided by the U.S. Department of Education and the Office of Civil Rights.

I. Introduction

A. Statement of Purpose

The College strives to create a campus community free from sexual misconduct, harassment, and discrimination. In working to achieve this intent, the College commits to:

- Respond to complaints or reports of prohibited conduct without prejudice and in a reasonably prompt time frame;
- Take action to stop sexual misconduct and prevent recurrences;
- Take action to remediate any adverse effects of such conduct on campus by providing advocacy, support and appropriate referral services for recipients of the behavior; and
- Educate individuals and promoting discussions on sex or gender discrimination, sexual misconduct, and sexual violence.

All forms of prohibited conduct under this procedure are regarded as serious college offenses, and proven violations will result in discipline, including the possibility of separation from the College. State and federal laws also address conduct that may meet the College's definitions of prohibited conduct, and criminal investigation and prosecution may take place independently of any disciplinary action instituted by the College.

B. Title IX Coordinator

The Coordinator will be informed of all complaints or reports of violations of this procedure and will oversee the College's centralized response to ensure compliance with Title IX, the 2013 Amendments to the Violence Against Women Act (VAWA), the Clery Act, and all other appropriate federal, state and campus guidelines. The Title IX Coordinator will initiate a Title IX Coordination team review of the policy annually, in addition to required reviews and updates as mandated by changes to federal regulations and guidance. The Coordinator's activities include (but are not limited to):

1. Coordinate compliance with Title IX requirements;
2. Create a campus policy and procedure that ensures compliance with Title IX and other associated requirements and includes monitoring outcomes, identifying and addressing any patterns, and assessing effects on the campus climate;
3. Collect and analyze information collected from the annual climate survey, beginning in the Fall semester of 2019;
4. Communicate with all members of the campus community regarding Title IX and VAWA, Clery, and provide information about how individuals may access their rights;
5. Review applicable college policies and other publications to ensure institutional compliance with and communication concerning Title IX, VAWA and Clery;
6. Monitor the College's administration of its own applicable policies and processes, including recordkeeping, timeframes, and other procedural requirements;
7. Conduct training regarding Title IX, VAWA, Clery, and prohibited conduct defined in this procedure; and
8. Respond to any complaint or report regarding conduct that violates this procedure. In this capacity, the Coordinator or Deputy Coordinator oversees the investigation and resolution of the alleged misconduct, directs the provision of any remedial measures, and monitors the administration of any related appeal.

The Coordinator may delegate responsibilities under this procedure to designated employees who have appropriate training.

Inquiries about or reports regarding this policy and procedure may be made internally to:

Title IX Coordinator
Director of Wellbeing & Accessibility
2500 College Drive
Rock Springs, WY 82901

Deputy Title IX Coordinator for Students
Associate Vice President of Institutional Effectiveness
2500 College Drive
Rock Springs, WY 82901

Deputy Title IX Coordinator for Employees
Associate Vice President of Human Resources
2500 College Drive
Rock Springs, WY 82901

Inquiries may be made externally to:
Office for Civil Rights, **Denver Office**
U.S. Department of Education
Cesar E. Chavez Memorial Building
1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582
Telephone: (303) 844-5695
Facsimile: (303) 844-4303
OCR.Denver@ed.gov

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

Equal Employment Opportunity Commission (EEOC)

Contact: <http://www.eeoc.gov/contact/>¹

The Director of Wellbeing & Accessibility shall serve as the Title IX Coordinator. The Title IX Coordinator shall not have any job responsibilities or engage in any conduct that may create a conflict of interest with the job responsibilities of Title IX Coordinator. Any individual participating in a Title IX investigation, sanctioning or appeal determinations shall disclose any potential or actual conflict of interest or bias. Individuals who believe the Title IX Coordinator has actual bias or a conflict of interest may contact the President to request the Title IX Coordinator be prohibited from participating in a Title IX action. Individuals who believe a conflict of interest has biased any other administrator involved in a Title IX investigation may contact the Title IX Coordinator to request the conflicted individual be prohibited from participating in a Title IX action.

Individuals who allege or suspect the Title IX Coordinator has violated this procedure are encouraged to report the alleged violations directly to the College President and potential criminal conduct to law enforcement; 2500 College Drive, Room 3020, Rock Springs, WY 82901 (307)382-1602.

C. Reporting Misconduct or Discrimination

The College encourages all individuals to report alleged or suspected violation of this procedure to the Title IX Coordinator (Coordinator) and/or Deputy Title IX Coordinators (Deputy Coordinators,) as available and to report potential criminal conduct to law enforcement and to the College's Protective Services. The College Title IX Coordinator and Deputy Coordinators' contact information is as follows:

- 1) Report directly to the Title IX Coordinator or Deputy Coordinator;

Title IX Coordinator
Director of Wellbeing & Accessibility
2500 College Drive
Rock Springs, WY 82901

Deputy Title IX Coordinator for Students
Associate Vice President of Institutional Effectiveness
2500 College Drive
Rock Springs, WY 82901

Deputy Title IX Coordinator for Faculty and Staff
Associate Vice President of Human Resources
2500 College Drive
Rock Springs, WY 82901

2) Report online, using the reporting form posted at <https://cm.maxient.com/reportingform.php?WesternWyomingCC>
Online reporting allows for individuals to report either with identification or anonymously. The College's ability to investigate and resolve anonymous complaints will be limited if the information contained in the anonymous complaint cannot be verified by independent information.

3) The College defines all employees (including student employees with the exception of confidential persons such as counselors under informed consent and clergy), as “responsible employees”, and as such, are mandatory reporters. During emergencies, if there is a suspected crime in progress, or when there is imminent or serious threats to the safety of anyone, faculty and staff members must immediately contact local law enforcement and contact the College’s Protective Services office.

In non-emergency situations, faculty, staff, and student employees who are not confidential resources must promptly report suspected violations to the Coordinator or Deputy Coordinator, as available;

and/or

4) The student may choose to contact the College’s Protective Services office to file a report. The student may also choose to contact local law enforcement to file a criminal complaint. Please know that a Title IX investigation and/or a criminal investigation may use physical evidence. College Protective Services can assist in securing the scene until law enforcement can arrive.

D. Jurisdiction

This procedure governs the conduct of the following: College students, employees and third parties (i.e., nonmembers of the campus community, such as vendors, alumni, visitors, or local residents). This procedure applies to conduct that occurs on College property (i.e., on campus) or other location, events, or circumstances over which the school exercises substantial control over both the respondent and the context in which the sexual harassment occurred, and any

building owned or controlled by a student organization that is officially recognized by the college. Any violation that occurs outside of the College jurisdiction but has an adverse impact on a person's education or could create a hostile environment on campus and may be addressed in any manner the school chooses.

E. Prevention and Education

The College has implemented educational requirements as well as supplemental programming in various modalities for students and employees regarding this policy and procedure. In addition, consideration of physical surroundings and general safety in addressing prevention of sexual misconduct, sexual harassment and discrimination. The College continually reviews and modifies the physical surroundings to foster security and safety, including but not limited to such factors as lighting and locking procedures. For further safety information, contact Protective Services at 307-382-1690.

Notice of this policy will be distributed annually to all students, employees, contractors, unions, and upon application to the college.

F. Policy/Procedure Review and Revision

These policies and procedures will be reviewed on a regular basis by the Title IX Coordinator. The College reserves the right to make changes to this document as necessary. If government regulations change in a way that impacts this procedure, this document will be updated to comply with government regulations in their most recent form.

II. PROHIBITED CONDUCT

In determining whether alleged conduct violates this policy, the College will consider the totality of the information and circumstances involved in the incident, including the nature of the alleged conduct and the context in which it occurred.

The College may have a duty to report assaults in this category to local authorities. Prohibited conduct under this procedure includes but is not limited to the following:

A. Sexual Misconduct

State law defines various violent and/or non-consensual sexual acts as crimes. While some of these acts may have parallels in criminal law, the College has defined categories of sex/gender discrimination as sexual misconduct and sexual harassment, as stated below, for which action under this policy may be imposed. However, the College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination,

for any act of sexual misconduct or other sex/gender-based offenses, including intimate partner (dating and/or domestic) violence, non-consensual sexual contact and/or stalking based on the facts and circumstances of the particular allegation. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation and/or gender identity or perceived gender of those involved. Violations include:

Sex Offenses

Any Sexual act directed against another person without the consent of the victim, including instances where the victim is incapable of giving consent.

1. Sexual Harassment

Sexual harassment (for Title IX purposes) is defined as one or more of the following:

- An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct.
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the recipient's educational program or activity.
- "sexual assault", "dating violence", "domestic violence" and "stalking" as defined in Clery Act/VAWA. See specific VAWA/Clery definitions below.

2. Non-Consensual Sexual Intercourse

Defined as any sexual penetration, no matter how slight, of the vagina or anus, with any body part or object or oral penetration by a sex organ of another person's without consent of the victim.

3. Non-Consensual Sexual Contact

Defined as the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent.

B. Sexual Exploitation

Sexual Exploitation refers to a situation in which a person takes non-consensual abusive sexual advantage of another, and that behavior does not otherwise fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact. Examples of Sexual Exploitation may include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaging in sexual acts without the consent of the person observed).

- Invasion of sexual privacy.
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).
- Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV), a sexually transmitted disease (STD) or infection (STI) without informing the other person of the infection.
- Administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent (assuming the act is not completed).
- Exposing one's genitals in non-consensual circumstances.
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

C. Force, Coercion and Consent

1. Force

Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also may include threats and/or intimidation (implied threats).

2. Coercion

Coercion is unwelcome and pervasive pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, 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.

3. Consent

Consent is the equal approval, given freely, willingly, and knowingly of each participant to desired sexual involvement. Consent is a conscious decision, indicated clearly by words or actions, to engage in mutually accepted sexual contact. Consent CANNOT be given if a person's ability to resist or consent is substantially impaired because of alcohol or drug consumption, a mental or physical condition, or perceived power differential.

Consent must be voluntary and may be withdrawn at any time. Agreeing to one activity does not mean agreeing to other activities nor does agreeing once mean agreeing to future occasions. Consent cannot be given when a person feels threatened, pressured, coerced, or is unable to communicate due to being mentally or physically incapacitated. In addition, consent cannot be given by those individuals who are under the age of legal consent.

Consent may **not** be inferred from:

- Silence, passivity, or lack of active resistance alone;
- A current or previous dating or sexual relationship;
- Consent to one form of sexual contact does not imply consent to other forms of sexual contact.

a. Incapacitation

Incapacitation is defined as a state where someone 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 or how” of their sexual interaction). This incapacity may result from, but is not limited to, disability, age, involuntary physical restraint and/or from the taking of incapacitating drugs or alcohol.

In Wyoming, a minor, under the age of 18, cannot consent to sexual activity with an adult. This means that sexual contact by an adult with a person younger than 18 with a four-year age differential may be a crime and would result in an immediate report to Department of Family Services, or Law enforcement even if the minor welcomed the sexual activity.

D. Other Possible Title IX Offenses

In addition to the forms of sexual misconduct described above, the following behaviors are also prohibited as forms of discrimination when the act is based upon the complainant’s actual or perceived membership in a protected class.

Discrimination: No person, on the basis of that person’s sex, sexual orientation, gender or gender identity, can be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Intimidation: Implied threats or acts that cause a fear of harm in another.

Complicity: Any act that knowingly aids, facilitates, promotes, or encourages the commission of prohibited conduct by another person. Any individual found responsible for complicity in

prohibited conduct will be subject to the disciplinary procedures and sanctions outlined in this procedure.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the length of the relationship, type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Domestic Violence: Violence committed by a current or former spouse, or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Bullying: Repeated, pervasive or severely aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person physically or mentally. This would not include speech or conduct that is otherwise protected by the 1st amendment.

Stalking: A pattern of repeated and unwanted attention, harassment, contact or any other course of conduct that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

Retaliation: Any adverse action taken against a person because of their good faith participation in a protected activity, such as alleging sexual misconduct, supporting a complainant or assisting in providing information relevant to a claim of sexual misconduct. Retaliation can take many forms, including abuse or violence, threats, and intimidation. Actions in response to a good faith report or response under this procedure are considered retaliatory if they have a materially adverse effect on the working, academic or College-controlled living environment of an individual or if they hinder or prevent the individual from effectively carrying out their College responsibilities. Any individual or group of individuals can engage in retaliation and will be held accountable under this procedure. Reports of retaliation shall be communicated to the Coordinator.

Sanctions for the above-listed behaviors range from reprimand through expulsion (students) or termination of employment (employees).

III. Additional Title IX Information

A. Confidentiality & Privacy

The term "confidentiality" refers to the circumstances under which information will or will not be disclosed to others. The complainant may request confidentiality at the time they disclose the sexual misconduct. However, confidentiality cannot be guaranteed; in instances where a release of information form has been signed, or if the College receives a subpoena or court order, information may be released to third-parties. The Coordinator or Deputy Coordinator will evaluate the request and determine the extent to which confidentiality may be maintained. The College will make every attempt to safeguard the privacy of the complainant; however, the College cannot ensure confidentiality in all cases. The College must weigh the request for confidentiality against its obligation to protect the safety and security of the entire campus as well as conduct a fair and impartial investigation. As is the case with anonymous reports, the College's ability to conduct a meaningful investigation of the incident and pursue disciplinary action against alleged perpetrators may be limited when confidentiality has been requested.

Before a student reveals information that he or she may wish to keep confidential, any responsible employee at the College is required to make every effort to ensure that the student understands:

- The employee's obligation to report the names of the respondent and complainant involved in the alleged sexual misconduct, as well as relevant facts regarding the alleged incident (including the date, time, and location), to the Coordinator or a Deputy Coordinator;
- The option to request that the College maintain confidentiality, which the College will consider; and,
- The ability to share the information confidentially with counseling, advocacy, health, mental health, or sexual-assault related services (e.g., sexual assault resource centers, campus health center, and pastoral counselors). This applies to situations in which the complainant is under the care of a mental health counselor. Given that all employees have multiples roles on campus, it is possible that a counselor could be operating under one of the other roles and could be required to share confidential information; and,
- That depending on the circumstances of the offense (the severity of the offense, the number of complainants involved, etc.), the College may be required to respond to an incident, even if confidentiality has been requested. Therefore, College employees cannot guarantee absolute confidentiality.

Individuals desiring confidentiality should be encouraged to contact one of the following:

Western Wyoming Community College Counseling Services (Wellbeing and Accessibility)

Phone Number: 307-382-1652

Address: Room 2011

Website: <https://www.westernwyoming.edu/services/sdc/counseling/>

Disclosure to employees of the College Wellbeing & Accessibility while participating in counseling and under informed consent, will not initiate an investigation by the College against the student's wishes. These employees are required to report that an incident occurred without revealing any of the complainant's personally identifying information.

Other Available Options for Counseling Services

Southwest Counseling Service: 307-352-6680 or 307-872-3205

YWCA/Center for Children and Families (formerly known as Support and Safe House):

(Advocacy): 307-352-6639 or 307-872-3250

Other referrals available upon request.

1. Confidentiality Rights Specific to Complainants and Respondents

Individuals involved in investigations or disciplinary proceedings under this procedure are encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation. While discretion regarding the process is important, complainants and respondents are not restricted from discussing and sharing information with others who may support or assist them in presenting their case. Medical and counseling records are privileged and confidential documents that parties will not be required to disclose.

The College reserves the right to designate which College officials have a need to know about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act.

2. Privacy

The term "privacy" refers to the discretion that will be exercised by the College in the course of any investigation or disciplinary processes under this procedure.

The College has an obligation to make reasonable efforts to investigate and address complaints or reports of violations of this procedure. In all such proceedings, the College will take into consideration the privacy of the parties to the extent possible.

In cases involving students, the Coordinator may notify necessary college staff and other college employees of the existence of the complaint for the purpose of overseeing compliance with this procedure and addressing any concerns related to educational and residential life. These individuals will maintain confidentiality and respect the privacy of those involved in the process. Any additional disclosure of information related to the complaint or report may be made if consistent with the Family Educational Rights and Privacy Act (FERPA), Clery, or the Title IX requirements.

B. Interim Action/Responsive Measures

The College will offer and implement appropriate and reasonable responsive, supportive, and/or protective measures to reporting and responding parties upon notice of alleged misconduct, harassment, discrimination and/or retaliation. These interim actions are intended to support both parties; protect and preserve access to educational and employment programs and activity; address the short-term effects of misconduct harassment, discrimination and/or retaliation; protect the safety of all parties; and prevent further violations. Potential interim measures include, but are not limited to the following:

- Implement no-contact orders for parties
- Provide campus escorts
- Alter class schedule and/or make accommodations or adjustments for coursework
- Alter campus housing arrangements
- Provide transportation, if needed
- Provide education to parties and campus community
- Referral to counseling and/or advocacy services on campus or within community
- Academic support
- Alter work arrangements

The Coordinator or Deputy Coordinator is responsible for documentation, notification and ensuring the implementation of interim measures as well as coordinating the College's response with the appropriate offices on campus. The College will implement the least restrictive interim actions possible in light of the circumstances and safety concerns. Interim measures will continue even if the College postpones investigation to comply with law

enforcement requests. Violation of the interim measures may be considered grounds for additional complaints as outlined in this procedure.

In circumstances seriously affecting the health or well-being of any person, or where physical safety is seriously threatened, or where the ability of the College to carry out its essential operations is seriously threatened or impaired, the President, Acting President, or Title IX Coordinator may summarily suspend, dismiss, or bar any person from the College. In all such cases, actions taken will be reviewed promptly by the Title IX Coordinators. In cases where interim suspension is imposed the Title IX Coordinator will:

- Analyze individual safety and risk to determine an immediate threat in conjunction with BIT assessment team
- Provide written notice to all parties regarding the suspension
- Provide an opportunity to appeal the interim suspension

The College will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the College's ability to provide the accommodations or protective measures.

C. Federal Timely Warning Obligations

Parties reporting sexual misconduct should be aware that under the Clery Act, College administrators must issue timely warnings for incidents reported to them that may pose a substantial threat of bodily harm or danger to members of the campus community. The College will ensure that a victim'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.

D. False Allegations

A false complaint of Title IX harassment can place a permanent stigma on a member of the campus community and other persons, regardless of the ultimate outcome of any investigation. Accordingly, college procedure prohibits false accusations of all sorts; including those pertaining to Title IX issues. At the conclusion of a Title IX investigation process, if it appears reasonably likely that a complainant and/or others acted in bad faith or deliberately and knowingly filed a false complaint or provided false testimony, the respondent, as well as the College, may seek redress against those identified through appropriate channels.

E. Amnesty for Complainants and Witnesses

In order to encourage reports of conduct that is prohibited under this procedure, reporting parties who experience (or witness and subsequently report) sexual misconduct while under

the influence of alcohol or other drugs will not be subject to the student conduct or disciplinary policies for the alcohol or drug offense.

F. Timeliness of Report

Complainants and other reporting individuals are encouraged to report any violation of this procedure as soon as possible in order to maximize the College's ability to respond promptly and effectively. Complaints and reports may be made at any time without regard to how much time has passed since the incident(s) in question.

If the respondent is no longer a student or employee at the time of the complaint or report, the College may not be able to take disciplinary action against the respondent, but it will still seek to meet its Title IX obligations by providing support for the complainant and taking steps to end the prohibited behavior, prevent its recurrence, and address its effects.

H. Parental Notification (allegations involving students)

The College reserves the right to notify parents /guardians of dependent students regarding any Title IX offense that threatens health or creates a safety risk. Where a student is non-dependent, the College reserves the right to contact parents/guardians to inform them of situations in which there is a risk of imminent harm.

I. Federal Statistical Reporting Obligations

Some mandatory reporters under Title IX are also considered Campus Security Authorities (CSAs) under the Clery Act. As such, these individuals may be required to report certain crimes, including sexual assault, according to procedures outlined by the Clery Act.

A Campus Security Authority (CSA) is defined in the federal regulation as any person with significant responsibility for student and campus activity, including but not limited to student housing, student discipline, and judicial proceedings.

Currently, CSAs at the College include the following:

- Protective Services Supervisor
- Dean of Students
- Director of Wellbeing & Accessibility
- Associate Vice President of Human Resources
- Vice President for Student Services
- Athletic Director

When reporting under Clery, all personally identifiable information is kept confidential, but statistical information must be included within the Clery Annual Security Report and reported to federal authorities. The information to be shared includes the date, the general location of the incident and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

IV. TITLE IX INVESTIGATIVE PROCESS & PROCEDURE

(FOR ALLEGATIONS OF HARASSMENT, SEXUAL MISCONDUCT AND OTHER FORMS OF DISCRIMINATION, TITLE IX)

The College will act on any formal or informal allegation or notice of violation of the policy on Equal Opportunity for Students that is received by the Title IX Coordinator or a member of the administration, faculty, or other employee.

The procedures described below apply to all allegations of sexual misconduct, harassment or discrimination on the basis of protected class involving students and employees. These procedures may also be used to address collateral misconduct occurring in conjunction with harassing or discriminatory conduct (e.g.: vandalism, physical abuse of another, etc.). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty and staff handbooks. Secondary misconduct not related to Title IX will be referred to the Dean of Students.

A. Procedural Overview

Upon notice to the Title IX Coordinator, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the College, with consideration to complainant's wishes, will either initiate an informal or formal investigation and resolution that is thorough, reliable, impartial, prompt and fair. The investigation and the subsequent resolution process determines whether the nondiscrimination policy has been violated. If so, the College will promptly implement effective remedies designed to end the discrimination, prevent its recurrence and address its effects.

- Informal Resolution can be requested and agreed upon by all parties when the responding party accepts responsibility for violating policy or when the Coordinator can resolve the matter informally by providing remedies to resolve the situation. At any time, any party may stop the informal process and move towards a formal resolution.
- Formal Resolution is initiated by a formal written complaint. Upon receipt of the complaint, written notice will be issued and an investigation will commence. Formal resolution includes a full fact-finding investigation with a live hearing to determine policy violation responsibility. At any time, with agreement of both parties, the formal

process may stop and an informal resolution may be implemented. Formal resolution is the only option for complaints involving an employee.

- Dismissal of a formal complaint or allegations if the report does not meet criteria, jurisdiction, definitions, withdrawal of report by complainant, enrollment of parties, or other specific circumstances that prevent the recipient from gathering evidence.

1. Reporting Misconduct

Any member of the community, guest or visitor who believes that the policy on Title IX: Sexual Misconduct, Sexual Harassment, and Discrimination has been violated should contact the Title IX Coordinator. It is also possible for employees to notify a supervisor, or for students to notify a staff or faculty member. Any member of the community, including visitors, may contact Protective Services to make a report. These individuals will in turn notify the Title IX Coordinator. The College website also includes a reporting form.

2. Preliminary Inquiry, Formal Written Complaint & Responsibility to Investigate

Following receipt of notice or a report of misconduct, the Title IX Coordinator and/or Deputy Coordinator engages in a preliminary inquiry to determine if there is reasonable cause to believe the policy has been violated. This inquiry may also serve to help the Title IX Coordinator determine if the allegations indicate the presence of violence, threat, pattern, predation and/or weapon. Following the initial assessment, the Coordinator or Deputy Coordinator may take any of the following actions:

- Dismiss the complaint, even if substantiated but does not rise to the level of policy violation, and offer remedies and resources.
- Refer the complaint to another office for review.
- If a complaint constitutes a violation of this procedure, interim measures may be implemented and the complainant can choose to move forward with a formal written complaint, pursue an informal resolution, or choose that no action be taken.

In the event that the complainant(s) has asked for no action to be taken and where violence, threat, pattern, predation, and/or weapon is not evidenced, the Title IX Coordinator shall respect a complainant's request for no action, and will investigate only so far as necessary to determine appropriate remedies and offer supportive measures. The process followed considers the preference of the parties, but is ultimately determined at the discretion of the Title IX Coordinator. Informal resolution may only occur if selected by all parties, otherwise the administrative resolution process applies. If informal resolution is desired by the complainant, and appears appropriate given the nature of the alleged behavior, then the report does not

proceed to investigation, unless a pattern of misconduct is suspected or there is an actual or perceived threat of further harm to the community or any of its members.

In cases where the complainant wishes to proceed or the College determines it must proceed, the Title IX Coordinator will file a formal written complaint from the information available, despite a reluctant or unwilling complainant. The appropriate Title IX Deputy Coordinator will direct a formal investigation to commence and the allegation will be resolved through formal resolution.

Once a formal investigation has commenced, the Title IX Coordinator will provide written notification of the investigation to the respondent, upon initiation of a full investigation. The College will make a good faith effort to complete all investigations within a sixty (60) to ninety (90) business day time period, including appeals, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties as appropriate.

If, during the preliminary inquiry or at any point during the formal investigation, the Title IX Coordinator determines that there is no reasonable cause to believe that policy has been violated, the process will end unless the complainant requests that the Title IX Coordinator makes an extraordinary determination to re-open the investigation. This decision lies in the sole discretion of the Title IX Coordination Team.

3. Withdrawing a Complaint

A complainant, at any time, may withdraw a complaint by notifying the Title IX Coordinator or Appropriate Deputy Coordinator in writing. The Coordinator may choose to continue the investigation, depending entirely upon the individual circumstances surrounding each case in regards to violence, threat, pattern, predation and/or weapons. Interim supports and remedies will be offered regardless of the reporting party's willingness to pursue formal action. Future formal action can still be initiated at any time in the future by notifying the Title IX Coordinator or Deputy Coordinator in writing.

4. Choosing Investigators

The Coordinator will appoint a three-person investigative team comprised of two investigators and one deputy coordinator. At least one of the members of this team will have completed an approved course of investigator training. The College reserves the right to appoint the investigative team of its choice, which may consist of individuals employed by the College or outside investigators appointed by the College. Every attempt will be made to choose a team that will be free from conflicts of interest. Investigators are expected to make known any such

conflicts of interest prior to beginning the investigation. Should an investigator discover a conflict once the investigation has begun, that investigator will immediately report the discovery to the Coordinator or the appropriate Deputy Coordinators. The investigation process typically begins within 48-72 hours of a report.

5. Cooperation with Investigation and Disciplinary Procedures

The College encourages all members of the campus community (Complainants, Respondents, and Witnesses) to cooperate fully with the Title IX investigation and disciplinary procedures.

The College recognizes that an individual may be reluctant to participate in the process. Any party in an investigation that chooses not to participate must be aware that the investigation process will continue and, if possible, a finding will be determined. It is possible for findings to be reached with respect to the alleged conduct and that disciplinary sanctions will be issued with or without a party's participation. The College cannot require or issue disciplinary action due to a party's decision not to participate fully. The College will not draw any adverse inference from a respondent's silence or limited participation, however it may impact the effectiveness of the investigation.

All parties may provide written statements in lieu of interviews during the investigation and may be interviewed remotely if necessary, if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing.

6. Advocates/Advisors

Each party is allowed to have an advocate of their choice present with them for all Title IX meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their advocate as long as the advocate is willing and usually not otherwise involved in the resolution process, such as serving as a witness.

The College cannot guarantee equal advocacy rights; meaning that if one party selects an advocate who is an attorney, but the other party does not, or cannot afford an attorney, the College is not obligated to provide one. All advocates are subject to the same campus rules, whether they are attorneys or not. Advocates may not address campus officials in a meeting or interview unless invited to. The advocate may not make a presentation or represent the complainants or the respondent during any meeting or proceeding and may not speak on behalf of their party to the investigators or hearing panelists. The parties are expected to ask and respond to questions on their own behalf. Advocates are expected to refrain from interference with the investigation and resolution. Any advocate who steps out of their role will

be warned once and only once. If an advocate is removed from a meeting, that meeting will typically continue without the advocate present. Subsequently, the Title IX Coordinator will determine whether the advocate may be reinstated, may be replaced by a different advocate, or whether the party will forfeit the right to an advocate for the remainder of the process.

The College expects that the parties will wish to share documentation related to the allegations with their advocates; it can only be done with written consent that authorizes such sharing. Advocates are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may restrict the role of any advocate who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

A party may elect to change advocates during the process, and is not locked into using the same advocate throughout. The parties must advise the investigators of the identity of their advocate at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advocates at any time. All proceedings are private.

The College will provide a list of potential advocate options to any party who requests one.

7. Investigation Procedure

Notice of Report

Upon receipt of a formal report, provide written notice of the allegations to the parties, including:

- Notice of the applicable policies and procedures
- Notice of the details of the allegations, including:
 - The identities of the parties involved (if known)
 - The specific section(s) of the policy alleged to have been violated
 - The conduct that would be considered sexual harassment, etc.
 - The date of the incident
 - The location of the incident
- A statement in the written notice that the responding party is presumed to be “not responsible” for the alleged conduct until a determination is made.
- A statement that parties may request to see and review evidence collected in an investigation.

- A reminder of the expectation of truthfulness, including consequences for providing knowingly false statements or submitting false information.

Preliminary Inquiry

When the Coordinator receives a complaint or report alleging that there has been a potential violation of this policy, the Coordinator will assign the case to the appropriate Deputy Coordinator, who will conduct a preliminary inquiry. The brief preliminary inquiry will determine reasonable cause, suitability for informal resolution, and supportive/interim measures, and assess if OCR's requirements for dismissal are present.

Dismissal

Dismissal requires assessment of the following questions:

- Was the Complainant in the US at the time of the incident?
- Did the conduct occur in the recipients' education program or activity?
- Does the conduct alleged in the formal complaint constitute sexual harassment?
- At the time of filing a formal complaint, was the complainant participating in or attempting to participate in the recipient's education program or activity?

If any of the above questions are answered no the case will be dismissed. If dismissal is required, the case may be referred to student conduct or Human Resources for further investigation.

Informal Resolution

If an informal resolution is selected the preliminary inquiry must ensure that

- the process may be used at any point prior to reaching a determination of responsibility as long as a formal complaint has been filed and an employee is not the respondent.
- The investigators/facilitators are adequately trained.
- All parties provide voluntary written consent to use the informal process.
- All parties are provided with written notice that includes:
 - The allegations
 - The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations.
 - At any time prior to agreeing to a resolution, the right of any party to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.
 - Any consequences resulting from participating in the informal resolution process including the records that will be maintained or could be shared.

Investigative Team

Title IX Coordinator will appoint a two-person investigative team that are free of any conflict of interest. The Title IX Deputy Coordinator will work to support the investigative team, provide oversight, feedback, and resources as needed. The investigative team will interview the parties separately. An advocate may participate in the interview process. Throughout the investigation, the team will compile an investigative file comprised of all interview summaries, witness statements, and other documents collected. The investigative team will also:

- Provide clear written notice before each and every interview or other meeting they are invited or expected to attend that includes the date, time, location, participants, and purpose.
- Ensure all parties are aware of their right to an advisor of their choice, who may be present at all meetings, interviews and proceedings. Any restrictions made to advisor participation must be applied equally to all parties. All parties must be aware that if they move to a live hearing an advisor is required.
- Ensure that records that are made or maintained by health or mental health professionals are not accessed unless the investigators obtain the party's voluntary, written consent to do so.
- Provide all parties an equal opportunity to inspect and review evidence obtained during the investigation that is directly related to the allegations, including any evidence that the investigator does not intend to rely on in the written investigation report prior to finalizing the report.
- The investigators will question and allow each party to review and address all evidence as it is gathered. Investigators will then prepare a preliminary report document, which includes all evidence gathered, and provide it to each party to review. Provide all parties 10 days to review and submit a written response to the evidence which will be added by investigators before finalizing the report.
- Investigators will review any additional information, clarify as necessary, amend, and compile a final report, to be provided to the deputy coordinator for review. Upon approval by the appropriate Deputy Coordinator the final investigation report will be provided to the parties at least 10 days before a hearing will be scheduled.

Formal Resolution

When pursuing a formal resolution and after the final report prepared by investigators the appropriate Title IX Deputy Coordinator involved in the investigation will:

- Assemble a three-person hearing body whose members are impartial and unbiased. In addition, the hearing body will include the Title IX Coordinator (or uninvolved Deputy

Coordinator) to act as the Hearing Officer, facilitate the process, ensure record keeping of the hearing, and notify all parties of findings and applicable sanctions. The Title IX Coordinator will not vote on the decision making. The Deputy Coordinator will oversee the arrangements necessary in convening a hearing but is not a participant in the hearing. All members of the hearing body will have or will receive training regarding Title IX, including all prohibited conduct defined under this procedure.

- Schedule a live hearing 10 days after parties have received the final report. Parties will have five (5) additional workdays to schedule a prehearing meeting with the Title IX Deputy Coordinator as well as identify questions to be submitted on their behalf to the hearing panel.
- The prehearing meeting will be utilized to gather all questions from parties, review expectations, rules, rights, and answer any questions.
- The investigative Title IX Deputy will forward the final report to the Title IX Coordinator or appropriate Deputy Coordinator, who has been uninvolved in the process, to act as a hearing officer/decision maker who will review the report, all evidence, and review submitted questions to assure that they are appropriate. The hearing will be scheduled within three days of the receipt of the report and corresponding questions provided by the parties.
- The Hearing Officer will relay findings of responsibility and recommended sanctions assigned by the Hearing Panel. Findings of responsibility and sanctions will be sent to each party with the final investigative report. Parties will have 10 days to review and file an appeal (see appeals).

Questioning

All parties will submit written questions of the other parties, witnesses, and investigators to the Hearing Panel three (3) days prior to the hearing. The Hearing Panel may also pose their own questions during the hearing. Live questions directly from the parties or advisors are not permitted. The Hearing Officer has discretion to determine which questions are relevant to the determination and may not pose all questions submitted. Any questions not posed will be documented and the decision will be explained in writing to that party as part of the hearing proceeding finding.

All evidence should be collected prior to moving to a hearing. New evidence will not be presented at hearing. If new evidence arises, the investigative team should be notified by the party presenting new evidence, the hearing process will be concluded and the investigative process will begin again with efforts to address the new evidence presented.

Standard of Evidence

A preponderance of evidence, whether this procedure was violated. In connection with this procedure, “preponderance of the evidence” means the evidence is sufficient to persuade a reasonable individual that the proposition is “more likely true than not.”

Written Determination

The Hearing Officer will issue a written determination simultaneously to all parties for each alleged policy violation that includes:

- The specific sections of the code alleged to have been violated.
- A description of all the steps taken from the receipt of the formal report through the hearing.
- Specific descriptions and conclusions of all “findings of fact” that support the determination and sanctions.
- A statement and rationale with respect to each allegation, including determination, sanctions, and remedial measures.
- Procedures for appeal, including the basis upon which parties may appeal.

8. Sanctions

Sanctions will be determined based on the seriousness of the misconduct and the respondent's previous disciplinary history (if any). If a respondent is found responsible for violating college procedure, the Associate Vice President of Human Resources (employees) or the Dean of Students (students) will record the sanction and retain records in accordance with protocols for all other disciplinary cases. Possible sanctions may include, but are not limited to the following:

a. Student Sanctions

The following sanctions may be imposed upon students or organizations singly or in combination:

- **Warning:** A formal statement that the behavior was unacceptable and a warning that further infractions of any college policy, procedure or directive will result in more severe sanctions/responsive actions.
- **Educational Programming:** Participating in further education and or counseling regarding the nature of violation.
- **Probation:** A written reprimand for violation of the Code of Student Conduct, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any college policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified

social privileges, exclusion from co-curricular activities, non-contact orders and/or other measures deemed appropriate.

- **Suspension:** Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at the College. This sanction may be noted as a Conduct Suspension on the student’s official transcript, at the discretion of the Title IX Coordinator.
- **Expulsion:** Permanent termination of student status, revocation of rights to be on campus for any reason or attend college-sponsored events. This sanction will be noted as a “Suspension/Expulsion Conduct – Dismissal” on the student’s official transcript.
- **Organizational Sanctions:** Deactivation, de-recognition, loss of all privileges (including college registration), for a specified period of time.
- **Other Actions:** In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

b. Employee Sanctions

Responsive actions for an employee who has engaged in harassment, discrimination and/or retaliation will be determined by the Title IX Hearing Panel and relayed by the Hearing Officer to the Human Resource Department for implementation. Possible sanctions include but are not limited to:

- Warning
- Performance Improvement
- Counseling
- Training/Education
- Probation
- Loss of Responsibility
- Demotion
- Suspension with/without pay
- Termination

c. Determining Sanctions

Many factors are considered when determining a sanction/responsive action and may include nature, severity, and circumstances of the violation, the individual’s disciplinary history, or any other information deemed relevant by the Title IX Coordinator or Associate Vice President of Human Resources, respectively.

9. Withdrawal or Resignation While Charges Pending

Students: The College will not permit a student to withdraw if that student has an allegation pending for violation of this policy. Should a student decide to leave without notice to the college and/or not participate in the investigation, the process will nonetheless proceed in the student's absence to a reasonable resolution, and that student will not be permitted to return to college unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

Employees: Should an employee resign with unresolved allegations pending, the records of the Title IX Coordinator will reflect that status, and any college responses to future inquiries regarding employment references will be referred to the Human Resource Department.

10. Long-Term Remedies/Actions

Following the conclusion of the Investigative and Resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may utilize long-term remedies or actions to stop harassment or discrimination, remedy its effects and prevent their reoccurrence on campus. These remedies/actions may include, but are not limited to

- Changes to campus education efforts
- Increased awareness and prevention efforts
- Increased safety measures
- Changes to procedures

11. Failure to Complete or Comply with Sanctions/Remedies/Responsive Actions

All responding parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified by the Hearing Panel and Officer. Failure to abide by these conduct sanctions, responsive actions and corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions up to suspension, expulsion and/or termination from the College. The Coordinator is responsible to assure that all sanctions have been met in specified timeframes.

12. Disciplinary Procedures (Non-Members or One Party is a Member of Campus Community)

When a non-member of the campus community is involved as a complainant or a respondent, the College will use disciplinary procedures that are generally consistent with the disciplinary procedures as outlined in this procedure.

Modifications may be made to allow for privacy requirements. In no case will a member of the campus community (i.e., current student or employee) be afforded lesser rights or lesser

opportunities to participate in the disciplinary proceeding than the non-member of the campus community.

13. Appeal

The complainant and respondent have equal rights to an impartial appeal. All appeals will be referred to the Coordinator. The Coordinator will move all reports, evidence, and hearing records to the appropriate Vice President for appeal review. A complainant or respondent may file a written appeal only on one of the following grounds:

- There is substantial relevant information that was not presented and reasonably could not have been presented during the investigation or determination that could affect the outcome of the matter;
- The imposed sanction does not fall within the range of sanctions imposed for similar misconduct;
- There was procedural irregularity that affected the outcome of the matter including unfairness, conflict of interest or bias of Title IX team during the process.

The Vice President may decide to:

- Uphold the original decision;
- Lessen the imposed sanction; or
- Return the case to the investigative team for additional proceedings or other action.

Parties must notify the Title IX Coordinator in writing to request an appeal (10) business days from receipt of the written determination. If an appeal is filed, the Coordinator will notify the other party in writing. The Coordinator will have primary responsibility for interactions with the parties and for any gathering of information needed for the appeal. The Coordinator will notify both parties in writing of the outcome of any appeal.

14. Records

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Coordinator indefinitely in the Maxient Title IX Coordinator database. All training records for Title IX Team members will be kept with the Title IX Coordinator for a minimum of seven years.

It is the responsibility of the Title IX Coordinator, in consultation with the Director of Information Technology, to ensure that only authorized personnel have access to the records.

V. Statement of Rights

A. Disabilities Accommodation in the Resolution Process

The College is committed to providing qualified students, employees or others with disabilities with reasonable accommodations and support needed to ensure equal access to the College. Anyone needing such accommodations or support should contact Wellbeing & Accessibility, who will review the request and, in consultation with the person requesting the accommodation, and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation.

B. Party Rights

Each Party will be notified in writing and given full rights outlined in this procedure upon a report being filed and upon completion of formal or informal resolution.

Adopted: January 18, 1996

Reformatted: May 5, 2011

Revised: January 14, 2016

Reformatted: March 17, 2017

Revised: October 8, 2020