

HENRY FORD COLLEGE SEXUAL MISCONDUCT/TITLE IX GRIEVANCE PROCESS

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HENRY FORD COLLEGE SEXUAL MISCONDUCT/TITLE IX GRIEVANCE PROCESS

SECTION 1: GENERAL PROCEDURE

A. INTRODUCTION

Henry Ford College (“HFC” or “College”) is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from sexual harassment and retaliation for engaging in a protected activity. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, HFC has adopted the Sexual Misconduct/Title IX Policy (the “Policy”). The grievance procedures described in this document will guide how HFC will investigate and respond to complaints of sexual misconduct under the Policy.¹

Title IX of the Educational Amendments Act of 1972 (Title IX) states that, “no person in the United States shall, on the basis of sex, 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.” The U.S. Department of Education’s Office for Civil Rights (OCR), which enforces Title IX, interprets its prohibition against sex discrimination to include sexual harassment and sexual violence that interfere with a student’s and employee’s ability to equally access educational programs and opportunities.

On May 19, 2020, the U.S. Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972 that:

- Defines “sexual harassment” (including forms of sex-based violence); and
- Addresses how this institution **must** respond to reports of misconduct falling within that definition of sexual harassment, and
- Mandates a grievance process that HFC **must** follow to comply with the law in these specific covered cases before issuing a disciplinary sanction against a person accused of sexual harassment.

The full text of the Final Rule and its Preamble are available [here](http://bit.ly/TitleIXReg): <http://bit.ly/TitleIXReg>. Based on the Final Rule, Henry Ford College implemented this Title IX Grievance Procedure effective August 14, 2020.

¹ ATIXA 2020 ONE POLICY, TWO PROCEDURES MODEL. Use and adaptation of this model with citation to ATIXA is permitted through a limited license to Henry Ford College. All other rights reserved. ©2020. ATIXA

B. APPLICABLE SCOPE AND JURISDICTION

HFC has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of sexual Misconduct or retaliation. HFC values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

The procedure below applies **only** to qualifying allegations of sexual misconduct involving members of the College community². Sexual misconduct, for the purposes of the Sexual Misconduct/Title IX Grievance Process (“Title IX Grievance Process” or “Grievance Process”), includes the offenses of sexual harassment, sexual assault, dating violence, domestic violence and stalking. (Refer to [Appendix A](#) for the definition of sexual harassment as applicable to the College’s Sexual Misconduct/Title IX Grievance Process.)

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.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the student, faculty, and staff policies. The Title IX Coordinator³ or designee will determine if this Title IX Grievance Procedure should apply to a Formal Complaint.

The Procedure will apply when all of the following are met, in the reasonable determination of the Title IX Coordinator:

- (i.) The conduct is alleged to have occurred on or after August 14, 2020;
- (ii.) The conduct is alleged to have occurred in the United States;
- (iii.) The conduct is alleged to have occurred in the College’s education program or activity; education program or activity includes locations, events, or circumstances over which the College exercises substantial control over both the respondent and the context in which sexual harassment occurs, and also

² The Henry Ford College Community includes, but is not limited to, students, employees, and third parties (i.e., vendors, contractors, visitors, guests, etc.). For the Sexual Misconduct/Title IX Grievance Process, student is defined as an individual who is participating in or attempting to participate in an education program or activity of the College. (Per 34 CFR 106, §106.3).

³ Anywhere this procedure indicates “Title IX Coordinator,” HFC may substitute a trained designee.

includes any building owned or controlled by a student organization that is officially recognized by the College, whether such a building is on-campus or off-campus; and

- (iv.) The alleged conduct, if true, would constitute covered sexual harassment, as defined in the Policy and Procedure.

If all of the elements are met, the College will investigate the allegations according to the Grievance Process.

This Procedure can also be applicable to the effects of off-campus misconduct that effectively deprive a person of access to the College's educational program. The College may also, at its discretion, extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial College interest.

Regardless of where the conduct occurred, the College will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. 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; and/or
4. Any situation that substantially interferes with the educational interests or mission of the College.

If the Respondent is unknown or is not a member of the College community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options. If criminal conduct is alleged, the Title IX Coordinator or Campus Safety office can assist in contacting local law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the College's community, supportive measures, remedies, and resources may be provided to the Complainant by contacting the Title IX Coordinator or designee.

In addition, the College may take other actions as appropriate to protect the

Complainant against third parties, such as barring individuals from College's property and/or events. All vendors serving the College through third-party contracts are subject to the policies and procedures of their employers and/or to these policies and procedures to which their employer has agreed to be bound by under their contract(s) with the College.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences sexual misconduct, discrimination or retaliation in an externship, study abroad program, or other environment external to the College where sexual misconduct or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse.

C. TITLE IX COORDINATOR

HFC's Title IX Coordinator oversees implementation of the College's the Sexual Misconduct/Title IX Policy. The Title IX Coordinator has the primary responsibility for coordinating HFC's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remedy, and prevent sexual misconduct, discrimination, and retaliation prohibited under the policy.

All parties will be provided with a comprehensive electronic brochure detailing options and resources, which the Title IX Coordinator may also go over in person with the parties, as appropriate.

I. INDEPENDENCE AND CONFLICT OF INTEREST

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under the policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact the College's Vice President of Student Affairs or designee (313) 845-9610. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

II. ADMINISTRATIVE CONTACT INFORMATION

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding the policy and procedures, may be made ***internally*** to:

Title IX Coordinator

Munira Kassim

Interim Assistant Director of Student Conduct & Compliance

Student Affairs Department Building N,

Room N223 mmkassim@hfcc.edu

(313) 845-6301

Deputy Title IX Coordinator – Employees

Mark Tade

Assistant Director of Employee and Labor Relations

Human Resources

Department Welcome Center

metade@hfcc.edu

(313) 845-9851

Inquiries may be made ***externally*** to:

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>

For complaints involving employee-on-employee conduct: [Equal Employment Opportunity Commission](#) (EEOC) or [Detroit Field Office | U.S. Equal Employment Opportunity Commission\(eeoc.gov\)](#).

D. PROHIBITED CONDUCT

Refer to [Appendix A](#) for the relevant definition of sexual Misconduct as

applicable to the Title IX Grievance Process. Additional defined terms may be found in the [Henry Ford College's Sexual Misconduct Policy/Title IX](#).

E. ONLINE SEXUAL MISCONDUCT/ OR RETALIATION

HFC policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited above, 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 the 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.

Members of the College community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the College community.

Any online posting or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-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 the Policy when such online conduct can be shown to cause a substantial in- program disruption or infringement on the rights of others.

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but protected speech cannot legally be subjected to discipline.

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.

F. REPORTING PROHIBITED CONDUCT

Notice or complaints of sexual misconduct and/or retaliation may be made using any of the following options:

- I. File a report or Formal Complaint with, or give verbal notice to, the Title IX

Coordinator or Deputy Title IX Coordinator. Such a report or Formal Complaint may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail, to the office listed for the Title IX Coordinator or any other official listed.

Title IX Coordinator

Munira Kassim
Interim Assistant Director
of Student Conduct and
Compliance
Student Affairs
Department Building N,
Room N223
mmkassim@hfcc.edu
(313) 845-6301

**Deputy Title IX Coordinator –
Employees**

Mark Tade
Assistant Director of Employee and
Labor Relations
Human Resources
Department Welcome
Center
metade@hfcc.edu
(313) 845-9851

- II. Report online, using the Maxient reporting form posted at <http://hfcc.edu/incidentreport>. Maxient reports are reviewed during normal business hours and are not monitored after hours, on weekends, or during official college holidays.

Anonymous reports are accepted but can give rise to a need to investigate to determine if the parties can be identified. If not, no further formal action is taken, though measures intended to protect the community may be enacted. HFC tries to provide supportive measures to all Complainants, which may be impossible with an anonymous report that does not identify the Complainant.

Because reporting carries no obligation to initiate a formal response, and because the College respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of confidentiality by making a report that allows the College to discuss and/or provide supportive measures.

- III. File an incident report with the Campus Safety Office.

FOR EMERGENCY THAT INVOLVES AN IMMINENT RISK OF HARM TO SELF OR OTHERS, PLEASE CONTACT LOCAL POLICE, CAMPUS SECURITY OR BY DIALING 911.

On-campus phone: call 9911 or **24/7 Campus Safety Dispatch:** [313-845-9630](tel:313-845-9630)

Main Office: 313-845-9862
24/7 Dispatch: 313-845-9630

Building: N
Email: campussafety@hfcc.edu
Office Hours: Monday-Friday: 8 a.m. to 4:30 p.m.
East Campus Office: 313-317-1787

- IV. The College has designated HFC Licensed Counselors who have the ability to have privileged communications as Confidential Resources. When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party (including Title IX Coordinator) except when an applicable law or a court order requires or permits disclosure of such information. Foreexample, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities.

Non-identifiable information may be shared by Confidential Resources for statistical/tracking purposes as required by the federal Clery Act. Other information may be shared as required by law.

As used in the policy and procedure, the term “Formal Complaint” means a document or electronic submission (such as by electronic mail or through an online portal provided by College for this purpose) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the College investigate the allegations. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

G. REPORTING CONSIDERATION

I. RESPONSIBLE EMPLOYEES

All employees of the College (faculty, staff, administrators, and student employees), with the exception of those who are designated as Confidential Resources, must promptly report suspected or actual sexual misconduct, discrimination and/or retaliation to the Title IX Coordinator, or other appropriate College designee.

The College's Licensed Counselors are the only confidential employees not required

to report sexual misconduct incidents to the Title IX Coordinator without Complainant permission.

Employees must also promptly share all details of behaviors under the Title IX Policy and procedure that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Responsible Employees, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or seek a specific response from the College.

Supportive measures may be offered as the result of such disclosures without formal college action.

Failure of a Responsible Employee, as described above in this section, to report an incident of sexual misconduct or retaliation of which they become aware is a violation of College Policy and can be subject to disciplinary action for failure to comply.

Though this may seem obvious, when a Responsible Employee is engaged in harassment or other violations of the Policy, they still have a duty to report their own misconduct, though the College is technically not on notice simply because a harasser is also a Responsible Employee unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Responsible Employee who is themselves a target of harassment or other misconduct under the Policy is not required to report their own experience, though they are, of course, encouraged to do so.

II. REPORTING TO LAW ENFORCEMENT & PRESERVATION OF EVIDENCE

Because sexual misconduct may constitute both a violation of College policy and criminal activity, the College encourages students to report alleged sexual misconduct promptly to local law enforcement agencies. Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence within 72 hours of incident. Because the standards for finding a violation of criminal law are different from the standards for finding a violation of College Policies, criminal investigations or reports are not determinative of whether sexual misconduct, for purposes of this process or applicable College Policies, has occurred.

Conduct may constitute sexual misconduct under this process even if law enforcement agencies lack sufficient evidence of a crime and therefore decline to prosecute. In such cases, the Complainant may not initially understand the results of the criminal investigation, the nature of criminal procedure, or the grounds for the law enforcement decision not to prosecute. The Complainant in such cases may request that the Title IX Coordinator identify an advocate to assist the Complainant in seeking and attending a meeting with the local prosecutor to gain an understanding of the decision to decline a prosecution.

The preservation of evidence in incidents of sexual assault is critical to potential criminal prosecution and to obtaining restraining orders and is particularly time sensitive. The College will inform the Complainant of the importance of preserving evidence by taking the following actions:

Sexual Assault:

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

Stalking:

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
 - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
 - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of e-mail correspondence, including notifications related to account access alerts.
- Take timestamped photographs of any physical evidence including notes, gifts, etc. in place when possible.
- Save copies of any messages showing a request for no further contact.
- Obtain copies of call logs showing the specific phone number being used

rather than asaved contact name if possible.

During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be reiterated, if timely.

III. CONFIDENTIALITY/PRIVACY

HFC will make every effort to preserve the confidentiality of reports⁴. The College will notshare the identity of any individual who has made a report or complaint of sexual misconduct or retaliation; any Complainant; any individual who has been reported to be the perpetrator of sexual misconduct or retaliation; any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C.1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, orgrievance proceeding arising under these policies and procedures.

The College reserves the right to determine which College officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuantto the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint,including but not limited to: President’s Office, VP of Student Affairs, Compliance Office, Campus Safety, and the Behavioral Intervention/Threat Assessment Team. Information willbe shared as necessary with Investigators, Decision-makers, witnesses, and the parties.

The circle of people with this knowledge will be kept as tight as possible to preserve theparties’ rights and privacy.

⁴ For the purpose of the procedure, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of College employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the College’s response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in the College’s Privacy and Access to Student Records Under FERPA Policy. The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws (including Title IX) that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses.

The College may contact parents/guardians of students to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

IV. FEDERAL TIMELY WARNING & STATISTICAL REPORTING OBLIGATIONS

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, College must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the Campus 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.

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

- a) All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b) 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;
- c) VAWA⁵ based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- d) 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 Campus Security Authorities 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 safety/security, local police, coaches, athletic directors, student activities staff, human resources staff, advisors to student organizations, and any other official

⁵ VAWA is the Violence Against Women Act, enacted in 1994 and codified in part at 42 U.S.C. sections 13701 through 14040.

with significant responsibility for student and campus activities.

V. FALSE ALLEGATIONS AND EVIDENCE

Deliberately false and/or malicious accusations under the 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 policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under appropriate College policies.

VI. AMNESTY

The College community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to College officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the College community that Complainants choose to report misconduct to College officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, College maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

Students: Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to the Campus Safety Associates).

The College maintains a policy of amnesty for students who offer help to others in need. Although policy violations cannot be overlooked, the College may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.

Employees: Sometimes, employees are hesitant to report harassment or discrimination they have experienced for fear that they may get in trouble themselves. For example, an employee who has violated the consensual relationship policy and is then assaulted in the course of that relationship might hesitate to report the incident to College officials.

The College may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis.

H. TIME LIMITS ON REPORTING

There is no time limitation on providing notice/complaints to the Title IX 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 discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, the College will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint. Typically, this Policy is only applied to incidents that occurred after August 14, 2020. For incidents that occurred prior to August 14, 2020, previous versions of this Policy will apply. Those versions are available from the Title IX Coordinator.

I. PROMPTNESS

All allegations are acted upon promptly by HFC once it has received notice or a formal complaint. Complaints can take 60-120 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in the College's procedures will be delayed, HFC will provide written notice to the parties of the delay, the cause of

the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

J. NON-INVESTIGATORY MEASURES

I. SUPPORTIVE MEASURES

HFC will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual misconduct and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and as 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 sexual harassment and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the College will inform the Complainant, in writing, that they may file a formal complaint with the College either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

HFC will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the College's ability to provide those supportive measures. HFC 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 the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Student financial aid counseling
- Education to the institutional
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata orders
- Timely Warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety walks
- Implementing contact limitations (no contact orders) between the parties
- Any other actions deemed appropriate by the Title IX Coordinator
- Increased security and monitoring of community and certain areas of the campus

Violations of no contact orders or other restrictions will be referred to appropriate student or employee conduct processes for enforcement.

II. EMERGENCY REMOVAL OF RESPONDENT

HFC can act to remove a Respondent (whether a student or employee) entirely or partially from its education program or activities 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 in conjunction with the Behavioral Intervention Team (also known as BIT) using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the Respondent will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal 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 is appropriate. When this meeting is not requested in three (3) days, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under the policy and procedure to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

The College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

The Title IX coordinator will collaborate with Human Resources in cases involving employees. When the Respondent is an employee, existing provisions for interim action are applicable.

III. ADMINISTRATIVE LEAVE OF EMPLOYEE RESPONDENT

HFC may place a non-student employee respondent on administrative leave during the pendency of a Grievance Process.

K. WHEN A COMPLAINANT DOES NOT WISH TO PROCEED

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, and/or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether the College proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The College may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the College's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of the Policy.

When the College proceeds, the Complainant (and/or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under the Policy and Procedure irrespective of their level of participation.

Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

Note that the College's ability to remedy and respond to notice may be limited if the Complainant does not want the College to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the College's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the College to honor that request, the College may offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a

Complainant has the right, and can expect, to have allegations taken seriously by College and to have the incident(s) investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

L. RETALIATION

Protected activity under the Sexual Misconduct/Title IX Policy includes reporting an incident that may implicate the policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of the Policy.

Acts of alleged retaliation⁶ should be reported immediately to the Title IX Coordinator or Deputy Title IX Coordinator and will be promptly investigated. College will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

College and any member of College's community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Policy and procedure.

Filing a complaint within a different policy may be considered retaliatory if those charges could be applicable under the Title IX Policy, when charges are made for the purpose of interfering with or circumventing any right or privilege afforded within one policy that is not provided by Title IX Policy. Therefore, the College vets all complaints carefully to ensure this does not happen, and to ensure that complaints are routed to the appropriate process.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Pursuing a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy and procedure does not constitute retaliation, provided that a determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad

⁶ Retaliation allegations can be routed exclusively through another policy if a College so elects, but where retaliation and sexual harassment allegations are both alleged, it will likely make more sense to use Title IX Policy to resolve all together.

faith.

M. DISABILITIES ACCOMMODATIONS IN THE RESOLUTION PROCESS

HFC 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. All accommodations are made on an individualized basis.

Anyone needing such accommodations or support should contact Dr. Maureen Webster or Tiffany Webster 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 in the process.

Students

Dr. Maureen Webster
Assisted Learning Services
Counselor
Building A, Room
maureenw@hfcc.edu
(313) 845-6461

Employees

Tiffany Webster
Benefits
Manager
Human Resources Department, Room AB121
tlwebster1@hfcc.edu
(313) 845-9692

N. RECORDKEEPING

HFC will maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation.
2. Any disciplinary sanctions imposed on the Respondent.
3. Any remedies provided to the Complainant 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 train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution Process.

College will make these training materials publicly available on College’s website. (Note: If the College does not maintain a website, the College must make these materials available upon request for inspection by members of the public.); and

7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent.
 - b. Any measures designed to restore or preserve equal access to the College’s education program or activity; and
 - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

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

SECTION 2: GRIEVANCE RESOLUTION PROCESS

OVERVIEW

HFC will act on any formal or informal notice/complaint of violation of the *Sexual Misconduct/Title IX Policy* (“the Policy”) that is received by the Title IX Coordinator or any other Responsible employee.

The procedures below apply **only** to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrators, or faculty members.

RIGHT TO AN ADVISOR

The parties may each have an Advisor⁷ of their choice present with them for all meetings, interviews, and hearings within the Resolution Process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.⁸

⁷ This could include an attorney, advocate, or support person (witnesses are not entitled to Advisors within the process, though they can be advised externally).

⁸ “Available” means the party cannot insist on an Advisor who simply doesn’t have inclination, time, or availability.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

As a public entity, HFC fully respects and accords the Weingarten rights of employees. For parties who are entitled to union representation, the College will allow the unionized employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have one support person and an Advisor. Witnesses are/are not permitted to have union representation or Advisors in grievance process interviews or meetings.

A. WHO CAN SERVE AS AN ADVISOR

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the Resolution Process. The parties may choose Advisors from inside or outside of the College community.

The Title IX Coordinator will also offer to assign a trained Advisor to any party if the party so chooses. If the parties choose an Advisor from the pool available from the College, the Advisor will have been trained by the College and be familiar with the College's Resolution Process.

If the parties choose an Advisor from outside the pool of those identified by the College, the Advisor may not have been trained by the College and may not be familiar with College policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the Resolution Process, prior to a hearing.

B. ADVISOR'S ROLE IN MEETINGS AND INTERVIEWS

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

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.

C. ADVISORS IN HEARINGS/HFC-APPOINTED ADVISOR

Under Title IX regulations, a form of indirect questioning is required during the hearing but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, the College will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party(ies) and witnesses.

D. PRE-INTERVIEW MEETINGS

Advisors and their advisees may request to meet with the investigators conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and HFC's policies and procedures.

E. ADVISOR VIOLATIONS OF HFC POLICY

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 assigned by the College. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address College officials or investigators in a meeting or interview unless invited to do so (e.g., asking procedural questions). Advisors may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during a hearing proceeding during questioning.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by the policy and procedure, or who refuses to comply with the College's established rules and decorum for the hearing, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing will 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 Title IX

Coordinator will determine how to address the Advisor's non-compliance and future role.

F. SHARING INFORMATION WITH THE ADVISOR

HFC expects that the parties may wish to have the College share documentation and evidence related to the allegations with their Advisors.

The College provides a consent form that authorizes the College to share such information directly with a party's Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before HFC is able to share records with an Advisor.

If a party requests that all communication be made through their attorney Advisor, the College will not comply with that request.

Advisors appointed by the College will not be asked to disclose details of their interactions with their advisees to institutional officials or Decision-makers.

G. PRIVACY OF RECORDS SHARED WITH ADVISOR

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by HFC. Advisors will be asked to sign a Non-Disclosure Agreement (NDA)]. The College may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

H. EXPECTATIONS OF AN ADVISOR

The College generally expects an Advisor to adjust their schedule to allow them to attend College meetings/ interviews/ hearings when planned, but the College may change scheduled meetings/ interviews/ hearings 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/hearing by telephone, video conferencing, or other similar technologies as may be convenient and available.

I. EXPECTATIONS OF THE PARTIES WITH RESPECT TO ADVISORS

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least three (3) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is

necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release and NDA for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least three (3) business days before the hearing.

J. ASSISTANCE IN SECURING AN ADVISOR

For representation, Respondents may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>),
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>)
- The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legal-defense-fund/>

FORMAL GRIEVANCE PROCESS POOL

The Formal Grievance Process relies on a pool of administrators⁹ (“the Pool”) to carry out the process. Members of the Pool are trained annually, and can serve in the following roles, at the direction of the Title IX Coordinator:

- To provide appropriate intake of and initial guidance pertaining to complaints
- To act as an Advisor to the parties
- To serve in a facilitation role in Informal Resolution or Alternative Resolution if appropriately trained in appropriate resolution approaches (e.g., mediation, restorative practices, facilitated dialogue)
- To perform or assist with initial assessment
- To investigate complaints
- To serve as a hearing facilitator (process administrator, no decision-making role)
- To serve as a Decision-maker regarding the complaint

⁹ External, trained third-party neutral professionals may also be used to serve in pool roles.

- To serve as an Appeal Decision-maker

The Title IX Coordinator appoints the Pool¹⁰, 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 cases, the College can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

The Pool members receive annual training [jointly OR based on their respective roles]. This training includes, but is not limited to:

- The scope of the College's Title IX Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner by individuals who receive annual training in conducting investigations of sexual harassment, trauma-informed practices, and impartiality,
- How to uphold fairness, equity, and due process
- How to weigh evidence, conduct questioning, and/or assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by the College with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process, including hearings, appeals, and informal Resolution Processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants.

¹⁰ This does not preclude the College from having all members of the Pool go through an application and/or interview/selection process.

- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment, and/or retaliation allegations
- Recordkeeping

Specific training is also provided for all Pool members. All Pool members are required to attend these trainings annually. The materials used to train all members of the Pool are publicly posted here [Sexual Misconduct \(Title IX\) | Henry Ford College \(hfcc.edu\)](https://www.hfcc.edu/sexual-misconduct)

STEP 1: FILING FORMAL COMPLAINT

The College is only obligated to conduct an investigation and initiate a grievance procedure when it receives a “formal complaint.” The filing of a formal, written complaint initiates the formal grievance process and is available to any person who is participating in or attempting to participate in HFC’s Education Program or Activity,

Formal Complaint means a document submitted and signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the College investigate the allegation(s).

A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail; by using the contact information in this procedure; or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the College) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the College investigate the allegations.

If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

The College encourages all individuals to report Prohibited Conduct or a potential violation of the Policy to the Title IX Coordinator, the Office of Campus Safety, and/or local law enforcement. Any person can make a sexual misconduct report as follows:

1. To the Title IX Coordinator or Deputy Title IX Coordinator in person, by mail, phone, email, or by any other means that results in the Title IX Coordinator or Deputy Title IX Coordinator receiving the person’s verbal or written report.
2. Report to the Office of Campus Safety

3. To the United States Department of Education’s Office for Civil Rights regarding an alleged violation of Title IX ([OCR: Discrimination Complaint Form \(ed.gov\)](#) or by calling 1-800-421-3481).
4. **Confidential or Anonymous Reporting:** There are many supportive resources available at the College. Some of the resources are designated as confidential. Other resources provide support but may need to involve others. For confidential or anonymous reporting, you must either submit an anonymous online report or meet with a licensed counselor at the HFC Counseling Center. If safety to others is a concern, or as required by law, the College may need to report the allegation.

STEP 2: RECEIPT OF NOTICE/COMPLAINT

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps HFC needs to take. The Title IX Coordinator will contact the Complainant to offer supportive measures and determine whether the Complainant wishes to file a Formal Complaint.

The Title IX Coordinator will initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to file a formal complaint
- 2) An informal resolution (upon submission of a formal complaint)
- 3) A Formal Grievance Process including an investigation and a hearing (upon submission of a formal complaint).

The College uses the Formal Grievance Process to determine whether the Policy has been violated. If so, the College will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to sexual harassment or retaliation, their potential recurrence, and/or their effects.

STEP 3: INITIAL ASSESSMENT

Following receipt of notice or a complaint of an alleged violation of the Policy, the Title IX Coordinator¹¹ engages in an initial assessment, typically within seven (7) business days. The steps in an initial assessment can include:

¹¹ If circumstances require, the VP of Student Affairs or Title IX Coordinator will designate another person to oversee the resolution process should an allegation be made about the Coordinator or the Coordinator be otherwise unavailable, unable to fulfill their duties or have a conflict of interest.

- The Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them in doing so, if desired.
 - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint themselves.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
 - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assesses their request(s), and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
 - If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution¹², which informal mechanism may serve the situation best or is available, and may seek to determine if the Respondent is also willing to engage in informal resolution.
 - If a Formal Grievance Process is preferred by the Complainant, the Title IX Coordinator determines if the misconduct alleged falls within the scope of the 2020 Title IX regulations:
 - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
 - an incident, and/or
 - a pattern of alleged misconduct, and/or
 - a culture/climate issue

If alleged misconduct does not fall within the scope of the Title IX regulations, or the Title IX Coordinator determines that the regulations do not apply (and will “dismiss” that aspect of the complaint, if any), assess which policies may apply, which Resolution Process is applicable, and will refer the matter accordingly. Please note that dismissing a complaint under the 2020 Title IX regulations is solely a procedural requirement under Title IX which does not limit the Title IX authority to address a complaint with an appropriate process and remedies.

¹² Per the 2020 Title IX regulations, recipients are prohibited from Informal Resolution of a complaint by a student against an employee.

A. VIOLENCE RISK ASSESSMENT

In some cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted in consultation with the HR, BIT Team, or appropriate College Personnel as part of the initial assessment. A VRA can aid in critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to an individual or the community's physical health/safety.
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant.
- Whether the scope of the investigation should include an incident, and/or pattern of misconduct, and/or climate of hostility/harassment.
- To help identify potential predatory conduct.
- To help assess/identify grooming behaviors.
- Whether it is reasonable to try to resolve a complaint through informal resolution, and if so, what approach may be most successful.
- Whether to permit a voluntary withdrawal by the Respondent.
- Whether to impose transcript notation or communicate with a transfer College about a Respondent.
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning/Trespass order/Persona-non-grata is needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other Behavioral Intervention Team (BIT)/CARE team members.

A VRA authorized by the Title IX Coordinator should occur in collaboration with the BIT/CARE or threat assessment team. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

More about the College's process for VRA can be found below in [Appendix E](#).

B. DISMISSAL (MANDATORY AND DISCRETIONARY)¹³

The College **must** dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, if it is determined that:

- 1) The conduct alleged in the formal complaint would not constitute sexual misconduct as defined in the Policy, even if proved
- 2) The conduct did not occur in an educational program or activity controlled by the College (including buildings or property controlled by recognized student organizations), and/or the College does not have control of the Respondent
- 3) The conduct did not occur against a person in the United States
- 4) At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the College¹⁴ education program or activity

HFC **may** dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
2. The Respondent is no longer enrolled in or employed by HFC; or
3. Specific circumstances prevent HFC from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it. Upon any dismissal, the College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. This dismissal decision is appealable by any party under the procedures for appeal below.

¹³ These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR §106.45.

¹⁴ Such a Complainant is still entitled to supportive measures, but the formal grievance process is not applicable.

C. COUNTERCLAIMS

The College is obligated to ensure that the grievance process is not abused for retaliatory purposes, thus counterclaims made with retaliatory intent will not be permitted. The College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith.

Counterclaims determined to have been reported in good faith will be processed using the Resolution Process below. Investigation of such claims may take place after resolution of the underlying initial complaint, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying complaint, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of the policy.

D. CONSOLIDATION OF FORMAL COMPLAINTS

HFC may consolidate formal complaints as to allegations of sexual misconduct against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual misconduct arise out of the same facts or circumstances.

STEP 4: RESOLUTION PROCESSES

Resolution proceedings are private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accordance with College Policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose as part of an Informal Resolution, discussed below. HFC encourages parties to discuss with their Advisors any sharing of information before doing so.

The Formal Grievance Process is the College's primary resolution approach, unless Informal Resolution is elected by all parties and the College. Four options for Informal Resolution are detailed in this section, and the Formal Grievance Process is detailed starting in the next section.

A. INFORMAL RESOLUTION

Three options for Informal Resolution are detailed in this section

- **Supportive Resolution:** When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- **Alternative Resolution:** When the parties agree to resolve the matter through an alternative resolution mechanism as described below, [including mediation, restorative practices, facilitated dialogue, etc.], as described below, often before a formal investigation takes place.
- **Accepted Responsibility:** When the Respondent accepts responsibility for violating policy, and desires to accept a sanction(s) and end the Resolution Process.

To initiate Informal Resolution, a Complainant must submit a formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator. The parties may agree as a condition of engaging in Informal Resolution that statements made, or evidence shared during the Informal Resolution Process will not be considered in the Formal Grievance Process unless all parties consent.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process. The parties may not enter into an agreement that requires the College to impose specific sanctions, though the parties can agree to certain restrictions or other courses of action. For example, the parties cannot require a student be suspended, but the parties can agree that the Respondent will temporarily or permanently withdraw. The only Informal Resolution Process that can result in sanctions levied by the College is “Accepted Responsibility.” The Title IX Coordinator has discretion to determine if an investigation will be paused during Informal Resolution, or if it will be limited, or will continue during the Informal Resolution process.

Prior to implementing Informal Resolution, the College will provide the parties with written notice of the reported misconduct and any sanctions of (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the College.

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.

B. ALTERNATIVE RESOLUTION APPROACHES

Alternative Resolution is an informal approach, [including mediation, restorative practices, facilitated dialogue, etc.] by which the parties reach a mutually agreed upon resolution of an allegation. All parties must consent to the use of an Alternative Resolution approach.

The Title IX Coordinator may look to the following factors to assess whether Alternative Resolution is appropriate, or which form of Alternative Resolution may be most successful for the parties:

- The parties' amenability to Alternative Resolution
- Likelihood of potential resolution, considering any power dynamics between the parties
- The nature and severity of the alleged misconduct
- The parties' motivation to participate
- Civility of the parties
- Results of a violence risk assessment/ongoing risk analysis
- Disciplinary history of the Respondent
- Whether an emergency removal is needed
- Skill of the Alternative Resolution facilitator with this type of complaint
- Complaint complexity
- Emotional investment/capability of the parties
- Rationality of the parties
- Goals of the parties
- Adequate resources to invest in Alternative Resolution (time, staff, etc.)

The ultimate determination of whether Alternative Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator is authorized to facilitate a resolution that is acceptable to all the parties and/or to accept a resolution that is proposed by the parties, usually through their Advisors, including terms of confidentiality, release, and non-disparagement.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., referral for formal resolution, referral to the conduct process for failure to comply).

Results of complaints resolved by Informal Resolution or Alternative Resolution are not appealable.

C. RESPONDENT ACCEPTS RESPONSIBILITY FOR ALLEGED VIOLATIONS

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the TitleIX Coordinator will determine whether Informal Resolution can be used according to the criteria above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the College are able to agree on responsibility, restrictions, and/or remedies. If so, the TitleIX Coordinator implements the accepted finding that the Respondent is in violation of College policy and implements agreed-upon restrictions and remedies and determines the appropriate sanction(s) in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon resolution terms. When the parties cannot agree on all terms of resolution, the FormalGrievance Process will resume at the same point where it was paused.¹⁵

When a resolution is accomplished, the appropriate sanction(s) or responsive actions are promptly implemented in order to effectively stop the sexual harassment or retaliation, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on theComplainant and the community.

STEP 5: FORMAL RESOLUTION PROCESS

A. RESOLUTION TIMELINE

The College will make a good faith effort to complete the Resolution Process within a sixty-to- one hundred and twenty (60 -120) business day time period, including appeal, if any, which canbe extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

¹⁵ The parties may not want discussions that take place within Informal Resolution to be admissible in a later Formal Grievance Process, but essential facts must and do transfer from the informal process to the formal. Disclosing something in an informal setting to shield it from formal admissibility is a cynical strategy, so administrators should take care in determining the terms of any assurances of the confidentiality of the Informal Resolution.

B. FORMAL GRIEVANCE PROCESS: NOTICE OF INVESTIGATION AND ALLEGATIONS

The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who will be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all allegations
- The identity of the involved parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies implicated
- A description of the applicable procedures
- A statement of the potential sanctions/responsive actions that could result
- A statement that the College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- 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 directly related and/or relevant evidence obtained
- A statement about the College’s policy on retaliation
- Information about the confidentiality of the process
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor
- A statement informing the parties that the College’s Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how the party may request disability accommodations during the interview process
- The name(s) of the Investigator(s), along with a process to identify to the Title IX Coordinator, in advance of the interview process, any conflict of interest that the Investigator(s) may have
- An instruction to preserve any evidence that is directly related to the allegations.

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.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as

indicated in official College records, or emailed to the parties' College-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

C. APPOINTMENT OF INVESTIGATORS

Once the decision to commence a formal investigation is made, the Title IX Coordinator will ensure an investigator is assigned to conduct an investigation, usually within seven (7) businessdays of determining that an investigation should proceed.

D. ENSURING IMPARTIALITY

Any individual materially involved in the administration of the Resolution Process [including the Title IX 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 Title IX Coordinator will vet the assigned Investigator(s) 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 Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Vice President of Student Affairs.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

The College operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

STEP 6: INVESTIGATION

A. INVESTIGATION TIMELINE

Investigations are completed expeditiously, normally within sixty to ninety (60-90) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police

involvement, etc.

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

B. INVESTIGATION PROCESS DELAYS AND INTERACTIONS WITH LAW ENFORCEMENT

The College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The College will communicate the anticipated duration of the delay and reason to the parties in writing and provide the parties with status updates if necessary. The College will promptly resume its investigation and Resolution Process as soon as feasible. During such a delay, the College will implement supportive measures as deemed appropriate.

The 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.

C. INVESTIGATION PROCESS STEPS

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

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record. Recordings of interviews are not provided to the parties, but the parties will have the ability to review the transcript/summary/recording of the interview once the investigation report is compiled.

At the discretion of the Title IX Coordinator, investigations can be combined when complaints implicate a pattern, collusion, and/or other shared or similar actions.

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

- Determine the identity and contact information of the Complainant
- Identify all policies implicated by the alleged misconduct and notify the

- Complainant and Respondent of all of the specific policies implicated
- Assist the Title IX Coordinator, if needed, with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
 - Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
 - Meet with the Complainant to finalize their interview/statement, if necessary
 - Work with the Title IX Coordinator, as necessary, to prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations
 - Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party
 - Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
 - Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible.
 - When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
 - Interview all available, relevant witnesses and conduct follow-up interviews as necessary
 - Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
 - Complete the investigation promptly and without unreasonable deviation from the intended timeline
 - Provide regular status updates to the parties throughout the investigation
 - Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
 - Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
 - The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report.
 - Prior to the conclusion of the investigation, the parties will be given 10 business

days to review and comment on all evidence obtained, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the College does not intend to rely on in reaching a determination. The parties may elect to waive the full ten days

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

D. WITNESSES ROLE AND PARTICIPATION IN THE INVESTIGATION

Witnesses (as distinguished from the parties) who are employees of the College are strongly encouraged to cooperate with and participate in the College's investigation and Resolution Process. Student witnesses and witnesses from outside the College community are encouraged to cooperate with College investigations and to share what they know about a complaint.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break, pandemic or health orders) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness, efficiency, or other reasons dictate a need for remote interviewing. The College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

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.

E. RECORDING OF INTERVIEWS

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

F. EVIDENTIARY CONSIDERATIONS IN THE INVESTIGATION

Neither the investigation nor the hearing will consider: (1) incidents not relevant or not directly related to the possible violation, unless they evidence a pattern; or (2) questions and evidence about the Complainant's sexual predisposition; or (3) questions and evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

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

STEP 7: FORMAL HEARING

A. REFERRAL FOR HEARING

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

The hearing cannot be held less than ten (10) business days from the conclusion of the investigation – when the final investigation report is transmitted to the parties and the Decision-maker – unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator will select an appropriate Decision-maker(s) and provide a copy of the investigation report and the file of directly related evidence. Allegations involving student-employees in the context of their employment will be directed to the appropriate Decision-maker(s) depending on the context and nature of the alleged misconduct.

B. HEARING DECISION-MAKER COMPOSITION

The College will designate a single Decision-maker, at the discretion of the Title IX Coordinator. The single Decision-maker will also Chair the hearing. The Decision-maker(s) will not have had any previous involvement with the complaint.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this facilitator role. The hearing will convene at a time and venue determined by the Title IX Coordinator, Chair, or designee.

C. EVIDENTIARY CONSIDERATIONS IN THE HEARING

Any evidence that the Decision-maker(s) determine(s) is relevant may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the Complainant's sexual predisposition; or 3) questions or evidence about the Complainant's prior sexual behavior, unless such

questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the hearing decision-maker can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

Previous disciplinary action of any kind involving the Respondent may not be used 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, assuming the College uses a progressive discipline system. This information is only considered at the sanction stage of the process and is not shared until then.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-maker(s) at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Decision-maker(s) render(s) a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

D. HEARING NOTICE

No less than ten (10) business days prior to the hearing¹⁶, the Title IX Coordinator, Chair, or designee will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.
- Description of any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker(s) on the basis of demonstrated bias or conflict of interest. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and how the parties may access the recording after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the College will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already.¹⁷
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker(s) will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.

¹⁶ Unless an expedited hearing is agreed to by all parties.

¹⁷ The final investigation report may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

- Whether parties can bring mobile phones/devices into the hearing. If allowed, parties will not be allowed to record, etc. the hearing and all mobile devices must be silenced.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to the Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the College and remain within the 60-120 business day goal for resolution. Employees who do not have 12-month contracts are still expected to participate in Resolution Proceedings that occur during months between contracts.

E. ALTERNATIVE HEARING PARTICIPATION OPTIONS

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator/Designee or Chair at least five (5) business days prior to the hearing.

The Title IX Coordinator/Designee or Chair can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator/Designee or Chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

F. PRE-HEARING PREPARATION

After any necessary consultation with the parties, the Chair will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have proffered a written statement or answered written questions, unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and/or instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-maker(s) at least five (5) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the

Title IX Coordinator as soon as possible and no later than two days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the complaint.

The Title IX Coordinator will give the Decision-maker(s) a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at a pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

G. PRE-HEARING MEETINGS

The Chair may convene a pre-hearing meeting(s) with the parties and/or their Advisors and invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration of a pre-hearing ruling by the Chair based on any new information or testimony offered at the hearing. The Chair must document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

The Chair with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and/or their Advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel and/or the Title IX Coordinator or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded. The pre-hearing meetings may be conducted as separate meetings with each party/advisor, with all parties/advisors present

at the same time, remotely, or as a paper-only exchange. The Title IX Coordinator/Designee or Chair will work with the parties to establish the format.

H. HEARING PROCEDURES

At the hearing, the Decision-maker(s) has the authority to hear and make determinations on all allegations of sexual misconduct, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that occurred in concert with the sexual harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the Policy.

Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator, the Investigator(s) who conducted the investigation, Advisors to the parties, any called witnesses, the Title IX Coordinator, and anyone providing authorized accommodations, interpretation, and/or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing to respond to specific questions from the Decision-maker(s) and the parties, and the witnesses will then be excused.

I. JOINT HEARINGS

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

J. THE ORDER OF THE HEARING – INTRODUCTIONS AND EXPLANATION OF PROCEDURE

The Chair explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-maker(s) based on bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the

individual who is the subject of the challenge, in which case the Title IX Coordinator will review the challenge and decide.

At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator/case manager appointed by the Title IX Coordinator.¹⁸

The hearing facilitator may attend to: assist with logistics of rooms for various parties/witnesses as they wait; assist with flow of parties/witnesses in and out of the hearing space; ensure recording and/or virtual conferencing technology is working as intended; copy and distribute materials to participants, as appropriate, etc.

K. INVESTIGATOR PRESENTATION OF THE FINAL INVESTIGATION REPORT

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and Advisors and parties will refrain from discussion of or questions for Investigators about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

L. TESTIMONY AND QUESTIONING

Once the Investigator(s) present(s) the report and respond(s) to questions, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The hearing will facilitate questioning of parties and witnesses by the Decision-maker(s) and then by the parties through their Advisors.

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request if agreed to by all parties and the Chair), the proceeding will pause to allow the Chair to consider the question (and state it if it has not already been

¹⁸ If not conflicted out by previous involvement, the Title IX Coordinator may serve as the hearing facilitator/case manager.

stated aloud), and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may invite explanations or persuasive statements regarding relevance with the Advisors if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

M. REFUSAL TO SUBMIT TO QUESTIONING: INFERENCES

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-maker(s) may determine whether or not any prior statement made by that party or witness at the hearing (including those contained in the investigation report) should be considered in the ultimate determination of responsibility. Evidence provided that is something other than a statement by the party or witness may be considered.

The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared. It is otherwise considered off-limits, and an Advisor who is an institutional employee is temporarily relieved from Responsible Employee responsibilities related to their interaction with their advisee during the Resolution Process.

If collateral charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for questioning is afforded to all

parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with the College's established rules of decorum for the hearing, the College may require the party to use a different Advisor. If a College-provided Advisor refuses to comply with the rules of decorum, the College may provide that party with a different Advisor to conduct questioning on behalf of that party.

N. RECORDING HEARINGS

Hearings (but not deliberations) are recorded by the College for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker(s), the parties, their Advisors, and appropriate administrators of the College will be permitted to listen to the recording or review a transcript of the recording in a controlled environment determined by the Title IX Coordinator, upon request. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

STEP 8: DELIBERATION, DECISION-MAKING, AND STANDARD OF PROOF

The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of the evidence is used. The hearing facilitator may be invited to attend the deliberation by the Decisionmaker, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker(s) may then consider the previously submitted party impact and/or mitigation statement(s) in determining appropriate sanction(s). The Chair will ensure that each of the parties has an opportunity to review any impact and/or mitigation statement(s) once they are submitted. The Decision-maker(s) may – at their discretion – consider the statements, but they are not binding.

The Decision-maker(s) will review the statements and any pertinent conduct history provided by the appropriate administrator and will recommend/determine the appropriate sanction(s) in consultation with other appropriate administrators, as required.

The Chair will then prepare a written statement detailing all findings and final

determinations, the rationale(s) explaining the decision(s), the evidence used in support of the determination(s), the evidence not relied upon in the determination(s), credibility assessments, and any sanction(s) or recommendation(s) and rationale explaining the sanction(s) and will deliver the statement to the Title IX Coordinator.

This report is typically three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within fourteen (14) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

STEP 9: NOTICE OF FINAL OUTCOME

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome letter. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within ten (10) business days of receiving the Decision-maker(s)' deliberation statement.

The Notice of Outcome will be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official College records, or emailed to the parties' College-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific alleged policy violation(s), including the relevant policy section(s), and will contain a description of the procedural steps taken by the College from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding for each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the College is permitted to share such information under state or federal law; any sanction(s) issued which the Recipient is permitted to share according to state or federal law; and whether remedies will be provided to the Complainant to ensure access to the Recipient's educational or employment program or activity.

The Notice of Outcome will also include information on when the results are considered final by the College, will note any changes to the outcome and/or sanction(s) that occur prior to finalization, and the relevant procedures and bases for appeal.

STATEMENT OF THE RIGHTS OF THE PARTIES (SEE APPENDIX D)

SANCTIONS

Factors considered when determining a sanction/responsive action may include, but are not limited to:

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

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

The sanctions described in this procedure are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by external authorities.

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 grievance process at any time, and/or referring that information to another process for resolution.

A. STUDENT SANCTIONS

The following are the usual sanctions that may be imposed upon students singly or in combination:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either College-sponsored or external counseling to better comprehend the misconduct and its effects.

- *Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at HFC.
- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend College-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript, [subject to any applicable expungement policies.]
- *Withholding Diploma*: The College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: The College reserves the right to revoke a degree previously awarded from the College for fraud, misrepresentation, and/or other violation of College policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or 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/CORRECTIVE ACTIONS

Responsive actions for an employee who has engaged in sexual misconduct and/or retaliation include:

- *Warning – Verbal or Written*
- *Performance Improvement Plan/Management Process*
- *Enhanced supervision, observation, or review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*

- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Reassignment*
- *Delay of tenure track progress*
- *Assignment to new supervisor*
- *Restriction of stipends, research, and/or professional development resources*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions/responsive actions, the College may assign any other responsive actions as deemed appropriate.

WITHDRAWAL OR RESIGNATION BEFORE COOMPLAINT RESOLUTION

A. STUDENTS:

Should a Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the College, the Resolution Process typically ends with a dismissal, as the College has lost primary disciplinary jurisdiction over the withdrawn student. However, the College may continue the Resolution Process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged sexual harassment and/or retaliation.

Regardless of whether the complaint is dismissed or pursued to completion of the Resolution Process, the 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 sexual harassment and/or retaliation.

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

B. EMPLOYEES:

Should an employee Respondent resign with unresolved allegations pending, the

Resolution Process ends with dismissal, as the College has lost primary disciplinary jurisdiction over the resigned employee. However, the Recipient may continue the Resolution Process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged sexual harassment and/or retaliation.

Regardless of whether the complaint is dismissed or pursued to completion of the Resolution Process, the 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 sexual harassment and/or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for academic admission or rehire with the College or any College location, and the records retained by the Title IX Coordinator will reflect that status.

APPEALS

Any party may submit a written request for appeal (“Request for Appeal”) to the Title IX Coordinator within three (3) business days of the delivery of the Notice of Outcome.

A single Appeal Decision-maker will Chair the appeal. No Appeal Decision-maker(s) will have been previously involved in the Resolution Process for the complaint, including in any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Chair or designee for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

A. GROUNDS FOR APPEAL

Appeals are limited to the following grounds:

1. Procedural irregularity that affected the outcome of the matter.
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter.
3. The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents

generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in the Policy and Procedure, that request will be denied by the Appeal Chair, and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in the Policy and Procedure, then the Appeal Chair will notify the other parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s).

The other parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the request for an appeal with the approved grounds and then be given three (3) business days to submit a response to the portion of the appeal that was approved and involves them.

All responses, if any, will be forwarded by the Chair to all parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that will be reviewed to determine if it meets the grounds of this Policy by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, and the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses, if any, within 5 business days. Any such responses will be circulated for review and comment by all parties. If not approved, the parties will be notified accordingly, in writing.

Neither party may submit any new requests for appeal after this time period. The Appeal Chair will collect any additional information needed and all documentation regarding the approved grounds for appeal, and the subsequent responses will be shared with the Appeal Chair, and the Chair will render a decision within no more than 5 business days, barring exigent circumstances. All decisions apply the preponderance of the evidence.

A Notice of Appeal Outcome will be sent to all parties simultaneously. The Notice of 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 state or federal law, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in

official institutional records, or emailed to the parties' College-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

B. SANCTIONS STATUS DURING THE APPEAL

Any sanctions imposed as a result of the hearing are stayed (i.e.: not implemented) during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, 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 48 hours of implementation. If the original sanctions include separation in any form, the College may place a hold on official transcripts, diplomas, graduations, course registration pending the outcome of an appeal. The Respondent may request a stay of these holds from the Title IX Coordinator within two (2) business days of the notice of the sanctions. The request will be evaluated by the Title IX Coordinator or designee, whose determination is final.

C. APPEAL CONSIDERATIONS

- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is a clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or sanction(s).
- The Decision-maker(s) may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker(s) for reconsideration.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing). When appeals result in no change to the finding or sanction, that decision is final. 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.

- In rare cases where an error cannot be cured by the original Decision-maker(s) (as in cases of bias), the appeal Chair may order a new investigation with new investigators and/or a new hearing with a new Decision-maker(s).
- The results of a remand to a Decision-maker(s) cannot be appealed.
- In cases in which the appeal results in reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

LONG-TERM REMEDIES/OTHER ACTIONS

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the sexual harassment and/or retaliation, remedy the effects, and prevent reoccurrence.

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

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by the College to the Respondent to ensure no effective denial of educational access.

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.

FAILURE TO COMPLY WITH SANCTIONS AND/OR RESPONSIVE ACTIONS

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

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the College.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator. The Title IX Coordinator will notify the Respondent in writing once a suspension has been lifted.

APPENDIX A: DEFINITION OF SEXUAL HARASSMENT

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Michigan regard sexual harassment as an unlawful discriminatory practice.

The section below describes the specific forms of legally prohibited harassment that are also prohibited under the Policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of the Policy, though supportive measures will be offered to those impacted. All offense definitions encompass actual and/or attempted offenses.

HFC has adopted the following definition of sexual harassment in order to address the unique environment of an academic community.

Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Misconduct, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex,¹⁹ or that is sexual in nature, that satisfies one or more of the following:

- 1) **Quid Pro Quo:**
 - a. an employee of the HFC,
 - b. conditions²⁰ the provision of an aid, benefit, or service of the HFC,

¹⁹ Including gender identity, gender expression, sexual orientation, and sex stereotypes.

²⁰ Implicitly or explicitly.

- c. on an individual's participation in unwelcome sexual conduct.

2) **Sexual Harassment:**

- d. unwelcome conduct,
- e. determined by a reasonable person,
- f. to be so severe, and
- g. pervasive, and,
- h. objectively offensive,
- i. that it effectively denies a person equal access to the College's education program or activity.²¹

3) **Sexual assault**, defined as:

²¹ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced. This definition is broad enough to potentially encompass forms of sex-based disparate treatment, even if not harassing in nature.

- j. Any sexual act²² directed against a Complainant,²³
 - o without their consent, or
 - o instances in which the Complainant is incapable of giving consent.
- k. **Incest:**
 - o Non-forcible sexual intercourse,
 - o between persons who are related to each other,
 - o within the degrees wherein marriage is prohibited by Michigan law.
- l. **Statutory Rape:**
 - o Non-forcible sexual intercourse,
 - o with a person who is under the statutory age of consent of 16 in Michigan.

4) **Dating Violence**, defined as:

- m. violence,
- n. on the basis of sex,
- o. committed by a person,

²² A ‘sexual act’ is specifically defined by federal regulations to include one or more of the following: Rape:

- The carnal knowledge of a Complainant OR 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,
- without their consent,
- including instances where they are incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.”

Sodomy:

- Oral or anal sexual intercourse with a Complainant,
- forcibly, and/or
- against their will (non-consensually), or
- not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sexual Assault with an Object:

- The use of an object or instrument to penetrate,
- however slightly,
- the genital or anal opening of the body of the Complainant,
- forcibly, and/or
- against their will (non-consensually), or
- not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Fondling:

- The touching of the private body parts of the Complainant (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- forcibly, and/or
- against their will (non-consensually), or
- not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

²³ This would include having another person touch you sexually, forcibly, and/or without their consent.

- p. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant?
 - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - iii. Dating violence does not include acts covered under the definition of domestic violence.

5) **Domestic Violence**,²⁴ defined as:

- q. violence,
- r. on the basis of sex,
- s. committed by a current or former spouse or intimate partner of the Complainant,
- t. by a person with whom the Complainant shares a child in common, or
- u. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- v. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Michigan, or
- w. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Michigan.

6) **Stalking**, defined as:

- x. engaging in a course of conduct,
- y. on the basis of sex,
- z. directed at a specific person, that
 - i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. Suffer substantial emotional distress.

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or

²⁴ To categorize an incident as Domestic Violence under this Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

- communicates too about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

HFC reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under the Policy. The most serious offenses are likely to result in suspension/expulsion/termination, where warranted.

7) **Force, Coercion, Consent, and Incapacitation**²⁵

As used in the offenses above, the following definitions and understandings apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," which elicits the response, "Okay, don't hit me, I'll do what you want.>").

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

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain 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.

Consent is:

- knowing, and
- voluntary, and

²⁵ The state definition of consent is not specifically defined. The standard used in the sexual assault statutes is whether the accused used "force or coercion to accomplish the sexual [act]." Mich. Comp. Laws. Ann. § 750.520b – e.), which is applicable to criminal prosecutions for sex offenses in Michigan but may differ from the definition used on campus to address policy violations.

- clear permission
- by word or action
- to engage in sexual activity.

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

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

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.

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

Consent in relationships must also be considered in context. When parties consent to BDSM²⁶ or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so HFC’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

²⁶ Bondage, discipline/dominance, submission/sadism, and masochism.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when 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, and how” of their sexual interaction).

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

This Procedure 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 drugs.

APPENDIX B: PROHIBITED CONDUCT EXAMPLES

Examples of possible sexual harassment:

- A professor offers for a student to have sex or go on a date with them in exchange for a good grade. This constitutes sexual harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised, or a bad grade is threatened.
- A student repeatedly sends graphic, sexually oriented jokes and pictures around campus via social media to hundreds of other students. Many don't find it funny and ask them to stop, but they do not. Because of these jokes, one student avoids the sender on campus and in the residence hall in which they both live, eventually asking to move to a different building and dropping a class they had together.
- A professor engages students in class in discussions about the students' past sexual experiences, yet the conversations are not in any way germane to the subject matter of the class. The professor inquires about explicit details and demands that students answer them, though the students are clearly uncomfortable and hesitant.
- An ex-partner widely spreads false stories about their sex life with their former partner to the clear discomfort and frustration of the former partner, turning the former partner into a social pariah on campus.
- Chris has recently transitioned from male to non-binary, but primarily expresses as a female. Since their transition, Chris has noticed that their African Studies professor, Dr. Mukembo, pays them a lot more attention. Chris is sexually attracted to Professor Mukembo and believes the attraction is mutual. Chris decides to act on the attraction. One day, Chris visits Dr. Mukembo during office hours, and after a long conversation about being non-binary, Chris kisses Dr. Mukembo. Dr. Mukembo is taken aback, stops the kiss, and tells Chris not to do that. Dr. Mukembo explains to Chris that they are not interested in Chris sexually or romantically. Chris takes it hard, crying to Dr. Mukembo about how hard it is to find someone who is interested in them now based on their sexual identity. Dr. Mukembo feels sorry for Chris and softens the blow by telling them that no matter whether they like Chris or not, faculty-student relationships are prohibited by the university. Chris takes this as encouragement.

One night, Chris goes to a gay bar some distance from campus and sees Dr. Mukembo there. Chris tries to buy Dr. Mukembo a drink and, again, tries to kiss Dr. Mukembo. Dr. Mukembo leaves the bar abruptly. The next day, Chris makes several

online posts that out Dr. Mukembo as gay and raise questions about whether they are sexually involved with students. Dr. Mukembo contacts the Title IX Office and alleges that Chris is sexually harassing him.

Examples of Stalking

- Students A and B were “friends with benefits.” Student A wanted a more serious relationship, which caused student B to break it off. Student A could not let go and pursued student B relentlessly. Student B obtained a campus no-contact order. Subsequently, Student B discovered their social media accounts were being accessed, and things were being posted and messaged as if they were from them, but they were not. Whoever accessed their account posted a picture of a penis, making it look as if Student B had sent out a picture of themselves, though it was not their penis. This caused them considerable embarrassment and social anxiety. They changed their passwords, only to have it happen again. Seeking help from the Title IX Coordinator, Student B met with the IT department, which discovered an app on their phone and a keystroke recorder on their laptop, both of which were being used to transmit their data to a third party.
- A graduate student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student, they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate it if the gift deliveries stopped. The student then started leaving notes of love and gratitude on the tutor’s car, both on-campus and at home. Asked again to stop, the student stated by email, “You can ask me to stop, but I’m not giving up. We are meant to be together, and I’ll do anything to make you have the feelings for me that I have for you.” When the tutor did not respond, the student emailed again, “You cannot escape me. I will track you to the ends of the earth. If I can’t have you, no one will.”

Examples of Sexual Assault:

- Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00 p.m. until 3:00 a.m., Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. Despite her clear communications that she is not interested in doing anything sexual with him, Bill keeps at her, questions her religious convictions, and accuses her of being “a prude.” He brings up several rumors that he has heard about how she performed oral sex on a number of other guys. Finally, it seems to Bill that her resolve is weakening, and he convinces her to “jerk him off” (hand to genital contact). Amanda would have never done it but for Bill's incessant coercion.

- Jiang is a junior. Beth is a sophomore. Jiang comes to Beth's residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, soon become more intimate, and start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a babysitter at the age of five and avoids sexual relations as a result, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with Beth, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop but cannot. Beth is stiff and unresponsive during the intercourse.
- Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his apartment, and John comes on to Kevin, initiating sexual activity. Kevin asks John if he is really up to this, and John says yes. They remove each other's clothes, and they end up in John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John seems pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he came to again. When Kevin runs into John the next day, he thanks him for the great night. John remembers nothing and decides to make a report to the Dean.

Examples of Retaliation:

- Student-athlete A alleges sexual harassment by a coach; the coach subsequently cuts the student-athlete's playing time without a legitimate justification.
- A faculty member alleges gender inequity in pay within her department; the Department Chair then revokes approval for the faculty member to attend a national conference, citing the faculty member's tendency to "ruffle feathers."
- A student from Organization A participates in a sexual harassment investigation as a witness whose testimony is damaging to the Respondent, who is also a member of Organization A; the student is subsequently removed as a member of Organization A because of their participation in the investigation.

APPENDIX C: FRAMEWORK FOR INFORMAL RESOLUTION (IR)

The College has framed a process for IR that includes three options:

- 1) A response based on supportive measures
- 2) A response based on a Respondent accepting responsibility
- 3) A response based on alternative resolution, which could include various approaches and/or facilitation of dialogue

Alternative resolution approaches such as mediation, restorative practices, and transformative justice are likely to be used more and more often by colleges. The College does not endorse these approaches as better or worse than other formal or informal approaches.

The College believes that if they are to be used in and are effective for sex offenses, they need to be carefully and thoughtfully designed and executed and be facilitated by well-trained personnel who take the necessary time to prepare and lay a foundation for success. Although no approach is a panacea, the framework below can help to lay that foundation, regardless of which approach(es) are used.

Here are the principles to be considered in supporting various approaches to Informal Resolution:

- IR can be applied in any sex/gender-based interpersonal conflict but may not be appropriate or advisable in cases involving violent incidents (sexual violence, stalking, domestic and dating violence, severe sexual harassment, sexual exploitation, etc.)
- Situations involving dangerous patterns or significant ongoing threat to the community should not be resolved by IR.
- The determination of whether to permit an IR-based resolution is entirely at the discretion of the Title IX Coordinator and in line with the requirements for IR laid out in the Title IX regulations.
- Any party can end IR early-, mid-, or late-process for any reason or no reason.
- IR can be attempted before and in lieu of formal resolution as a diversionary resolution (although a formal complaint must be filed if you are within Section 106.30, per OCR).
- Alternative approaches can inform formal resolution, as in a formal resolution model infused with restorative practices.
- IR could be deployed after formal resolution, as an adjunct healing/catharsis opportunity (that could potentially mitigate sanctions or be a form of sanction).
- Alternative Resolution approaches to IR must be facilitated by the College or a third-party. There may be value in creating clearly agreed-upon ground rules, which the parties must

sign in advance and agree to abide by, otherwise the informal Resolution Process may be deemed to have failed.

- Technology-facilitated IR can be made available, should the parties not be able or willing to meet in person.
- If IR fails, a formal resolution can take place thereafter. No evidence elicited within the “safe space” of the IR facilitation is later admissible in the formal resolution unless all parties consent.
- With cases involving violence, the preferred alternative approach typically involves a minimal number of essential parties and is not a restorative circle approach with many constituents, in order to ensure confidentiality.
- Some approaches require a reasonable gesture toward accountability (this could be more than an acknowledgement of harm) and some acceptance, or at least recognition, by the Respondent that catharsis is of value and likely the primary goal of the Complainant. A full admission by the Respondent is not a prerequisite. This willingness needs to be vetted carefully in advance by the Title IX Coordinator before determining that an incident is amenable/appropriate for resolution by IR.
- IR can result in an accord or agreement between the parties (Complainant, Respondent, College), which is summarized in writing by and enforced by the College. This can be a primary goal of the process.
- IR can result in the voluntary imposition of safety measures, remedies, and/or agreed-upon resolutions by the parties that are enforceable by the College. These can be part of the accord/agreement.
- As a secondary goal, IR can result in the voluntary acceptance of “sanctions,” meaning that a Respondent could agree to withdraw, self-suspend (by taking a leave of absence), or undertake other restrictions/transfers/online course options that would help to ensure the safety/educational access of the Complainant, in lieu of formal sanctions that would create a formal record for the Respondent. These are enforceable by the College as part of the accord/agreement, as may be terms of mutual release, non-disparagement, and/or non-disclosure.
- Although a non-disclosure agreement (NDA) could result from IR, it would have to be mutually agreed-upon by the parties in an environment of non-coercion verified by the Title IX Coordinator.
- Institutions must develop clear rules for managing/facilitating the conference/meeting/dialogue of alternative resolution approaches to ensure they are civil, age-appropriate, culturally competent, reflective of power imbalances, and maximize the potential for the Resolution Process to result in catharsis, restoration, remedy, etc., for the Complainant(s).

APPENDIX D: STATEMENT OF RIGHTS OF THE PARTIES

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment, discrimination, and/or retaliation made in good faith to College officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information by the College regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released by the College to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by College officials.
- The right to have College Policy and these procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by College officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities.
- The right to be informed by College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by the College in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report.
- The right to have allegations of violations of the Policy responded to promptly and with sensitivity by College officials.

- The right to be informed of available supportive measures, such as counseling; advocacy; health care; student financial aid, visa, and immigration assistance; and/or other services, both on campus and in the community.
- The right to an College-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to be informed of available assistance in changing academic and/or working situations after an alleged incident of sexual harassment and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
 - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
 - Exam, paper, and/or assignment rescheduling or adjustment
 - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
 - Transferring class sections
 - Temporary withdrawal/leave of absence (may be retroactive)
 - Campus safety escorts
 - Alternative course completion options.
- The right to have the College maintain such actions for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair the College's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any College meeting or interview involving the other party, when possible.
- The right to have the Investigator(s), Advisors, and/or Decision-maker(s) identify and question relevant available witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Decision-maker(s), may be asked of any party or witness.
- The right to have inadmissible prior sexual predisposition/history or irrelevant character evidence excluded by the decision-maker.

- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to a fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of all relevant and directly related evidence obtained by the investigation, subject to privacy limitations imposed by state and federal law, and a ten (10) business day period to review and comment on the evidence.
- The right to receive a copy of the final investigation report, including all factual, policy, and/or credibility analyses performed, and to have at least ten (10) business days to review and comment on the report prior to the hearing.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received at least eight hours of relevant annual training.
- The right to a Hearing Panel that is not single sex in its composition, if a panel is used.
- The right to preservation of confidentiality/privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any College representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence; to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.

- The right to have an impact and/or mitigation statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the Resolution Process (if any) and a detailed rationale of the decision (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by the College is considered final and any changes to the final determination or sanction(s) that occur post Notification of Outcome.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the Resolution Process, and the procedures for doing so in accordance with the standards for appeal established by the College.
- The right to a fundamentally fair resolution as defined in these procedures.

APPENDIX E: VIOLENCE RISK ASSESSMENT (VRA)

Threat assessment is the process of assessing the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A **Violence Risk Assessment (VRA)** is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

The implementation of VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, and/or other Behavioral Intervention Team (BIT) (sometimes also known as CARE teams) members.

A VRA occurs in collaboration with the BIT, CARE, and/or threat assessment team and must be understood as an ongoing process, rather than a singular evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization (e.g., 5150 in California, Section XII in Massachusetts, Baker Act in Florida), nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use an evidence-based process consisting of:

- 1) An appraisal of **risk factors** that escalate the potential for violence
- 2) A determination of **stabilizing influences** that reduce the risk of violence
- 3) A contextual **analysis of violence risk** by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of threat; fixation and focus on target; grievance collection; and action and time imperative for violence
- 4) The application of **intervention and management** approaches to reduce the risk of violence

To assess an individual's level of violence risk, the Title IX Coordinator will initiate the violence risk assessment process through the BIT/ HR Team. The BIT/ HR Team will assign a trained individual(s) to perform the assessment, according to the specific nature of the Title IX case.

The assessor(s) will follow the process for conducting a violence risk assessment as outlined in the BIT manual and will rely on a consistent, research-based, reliable system that allows for the evaluation of the risk levels.

Some examples of formalized approaches to the VRA process include: The NABITA Risk Rubric,²⁷ The Structured Interview for Violence Risk Assessment (SIVRA-35),²⁸ Looking Glass,²⁹ Workplace Assessment of Violence Risk (WAVR-21),³⁰ Historical Clinical Risk Management (HCR-20),³¹ and MOSAIC.³²

The VRA is conducted independently from the Title IX process, informed by it, but free from pressure to result in a specific outcome. The individual(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The BIT/CARE or HR team's member(s) conducts a VRA process and makes a recommendation to the Title IX Coordinator as to whether the VRA indicates there is a substantial, compelling, and/or immediate risk to the health and/or safety of an individual or the community.

²⁷ [NaBITA-2019-Whitepaper-Final.pdf](#)

²⁸ www.nabita.org/resources/assessment-tools/sivra-35/

²⁹ www.nabita.org/looking-glass

³⁰ www.wavr21.com

³¹ hcr-20.com

³² www.mosaicmethod.com

APPENDIX F: HFC RECORD MAINTENANCE AND ACCESS MODEL POLICY

Policy Scope

The policy covers records maintained in any medium that are created pursuant to the College's Sexual Misconduct/ Title IX Policy and/or the regular business of the College's Title IX Office. All such records are considered private or confidential by the Title IX Office, in accordance with FERPA and the directive from the Department of Education to maintain the confidentiality of records related to Title IX. These records may be shared internally with those who have a legitimate educational interest and will be shared with the parties to a complaint under applicable state and/or federal law, including the 2020 Title IX regulations, FERPA, and/or the Clery Act/VAWA §304. The Title IX Office controls the dissemination and sharing of any records under its control.

Types of Records Covered Under this Policy

Records Pertaining to the Grievance-Resolution Process. These records include, but are not limited to:

- Documentation of notice to the institution including incident reports.
- Anonymous reports later linked to a specific incident involving known parties.
- Any documentation supporting the initial assessment.
- Investigation-related evidence (e.g., physical and documentary evidence collected and interview transcripts).
- Dismissal-related documentation.
- Documentation related to the grievance Resolution Process.
- The final investigative report.
- Remedy-related documentation.
- Supportive measures-related documentation.
- Hearing recordings and records.
- Appeal-related documentation.
- Informal resolution records.
- Notices of Outcome.
- Records documenting that the College's response was not deliberately indifferent.
- Any other records typically maintained by the College as part of the case file.

Specific examples of records pertaining to the grievance Resolution Process may include, but are not limited to: anonymous reports later identified; intake documentation; incident reports; the written complaint; the names of the Complainant, the Respondent; any witnesses; any relevant statements or other evidence obtained; interview notes or transcripts; timelines, flowcharts and other forms used in the investigation process; witness lists, correspondence, telephone logs, evidence logs and other documents related to the processing of an investigation; correspondence relating to the substance of the investigation; supportive measures implemented on behalf of the Complainant or Respondent; actions taken to restrict/remove the Respondent; correspondence with the parties; medical, mental-health, medical, and forensic record evidence obtained with consent during the course of the investigation; police reports; expert sources used in consideration of the evidence; documentation of outcome and rationale; correspondence and documentation of the appeals process; documentation of any sanctions/discipline resulting from the grievance Resolution Process; and documentation of reported retaliatory behavior as well as all actions taken to address these reports.

Drafts and Working Files: Preliminary drafts and “working files” are *not* considered records that must be maintained by the College, and these are typically destroyed during the course of an investigation or at its conclusion. They are preliminary versions of records and other documents that do not state a final position on the subject matter reviewed or are not considered to be in final form by their creator and/or the Title IX Coordinator. An example of a “working file” would be the investigator notes made during one interview with topics the investigator wants to revisit in subsequent interviews. Sole possession records maintained as such in accordance with FERPA are also included in this category. All drafts of investigation reports shared with the parties are maintained.

Attorney Work-Product: Communications from the Title IX Office or its designees with the College’s legal counsel may be work product protected by attorney-client privilege. These communications are not considered records to be maintained by the Title IX Office or accessible under the policy unless the Title IX Coordinator, in consultation with legal counsel as necessary, determines that these communications should be included as accessible records.

Record Storage:

Records may be created and maintained in different media formats; the policy applies to all records, irrespective of format. All records created pursuant to the Policy, as defined above, must be stored in database, digital and/or paper format. The complete file must be transferred to the Title IX Office within fourteen (14) days of resolution of the complaint (including any appeal), if the file is not maintained within the Title IX Office already. Security protocols must

be in place to preserve the integrity and privacy of any parts of any record that are maintained in the Title IX Office during the pendency of an investigation.

The Title IX Office will store all records created pursuant to the Policy, regardless of the identities of the parties. Parallel records could be maintained in the Office of Student Conduct and/or Human Resources, respectively and should be maintained in accordance with the security protocols of those offices. Any extra (non-essential) copies of the records (both digital and paper) must be destroyed.

A copy of records showing compliance with Clery Act requirements by Title IX personnel will be maintained along with the case file in the Title IX Office and in a separate aggregate annual Clery Act composite file, as well.

The College will maintain an access log of each case file, showing when and by whom it was accessed, and for what purpose using Maxient Database System.

Record Retention:

All records created and maintained pursuant to the Policy must be retained for seven (7) years by the Title IX Office in database, digital, and/ or paper form unless destruction or expungement is authorized by the Title IX Coordinator, who may act under their own discretion, or in accordance with a duly executed and binding settlement of claim, and/or by court or government order.

Record Access:

Access to records created pursuant to the Policy or housed in the Title IX Office is strictly limited to the Title IX Coordinator and any individual the Coordinator authorizes in writing, at their discretion or via permission levels within the database. Those who are granted broad access to the records of the Title IX Office are expected to only access records pertinent to their scope or work or specific assignment. Anyone who accesses such records without proper authorization may be subject to an investigation and possible discipline/sanction. The discipline/sanction for unauthorized access of records covered by the policy will be at the discretion of the appropriate disciplinary authority, consistent with the applicable collective bargaining agreement and/or other relevant College policies and procedures.

The parties may request access to their case file. The College will provide access or a copy within 45 days of the request. Appropriate redactions of personally identifiable information may be made before inspection or any copy is shared.

During the investigation, materials may be shared with the parties using secure file transmission software.

Record Security:

The Title IX Coordinator is expected to maintain appropriate security practices for all records, including password protection, lock and key, and other barriers to access as appropriate. Record security should include protection from flood, fire, and other potential emergencies.