

Sexual Misconduct Procedures (Approved by Vice President of Learner Support Services on August 14, 2020)

ATIXA 2020 ONE POLICY, TWO PROCEDURES MODEL
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BACKGROUND

Title IX of the Education Amendments of 1972 ("Title IX") is a Federal civil rights law that prohibits discrimination on the basis of sex in federally funded education programs or activity. All public and private educational institutions receiving Federal funds must comply with Title IX. Under Title IX, discrimination on the basis of sex can include gender-based discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, sexual exploitation and other forms of sexual misconduct. aland technical revapproved a revised Sexual Misconduct Policy ("the Policy") and authorized the President to

- *Behavioral Intervention Team (BIT)* means a group comprised of a cross-section of college personnel with expertise in the areas of student development, law enforcement, threat assessment, college operations, medical and mental health. The BIT evaluates and manages imminent threats of violence and coordinates an appropriate plan of action, which may include consulting external third parties with expertise in threat assessment. The BIT is designed to provide a coordinated referral system, a behavioral assessment process, an internal communications structure, and a comprehensive monitoring system to allow for follow-up and support. Standing membership of the BIT is comprised of staff from the following functional areas: Community Standards, Personal Counseling Services, Department of Public Safety and Policy, Faculty Human Services, Disability Support Services and Academic Advising. Additional College Employees may from time to time

(iii) the information shared concerns conduct involving suspected abuse or neglect of a minor

to, investigation of allegations, determination of whether a violation has occurred and if so, issuance of a sanction(s).

- *Investigator* means the Employee(s) designated by the Title IX Coordinator to gather facts about an alleged violation of the Procedures, assess relevance and credibility, synthesize the evidence, and compile this information into an investigation report and file of directly related evidence. When the Title IX Coordinator or President believes there may be a conflict of interest or other good cause, the President or the Title IX Coordinator, with approval from the President of the College,

- *Retaliation* means allegations of a materially adverse action(s) by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with

The core purpose of the Policy and Procedures is the prohibition of Sexual Misconduct or Retaliation. Sometimes, Sexual Misconduct involves exclusion from activities, such as admission, athletics, or employment. When an alleged violation of the Policy or Procedures is reported, the allegations are subject to resolution using these Procedures.

When the Respondent is a member of the College community, this grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the College community. The Policy and Procedures may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with these Procedures.

The Policy and Procedures apply to any allegations of Sexual Misconduct or Retaliation that fall within the scope of Title IX and supersede all prior versions of the Procedures. No other College policies or procedures will be used to respond, investigate, decide, appeal or otherwise resolve allegations of Sexual Misconduct or Retaliation that fall within the scope of Title IX, including student, employee, or faculty policies, procedures, manuals, processes. 1.6 (e)-(o)-4/(c)1.2(a)-2.9.9)-7 (u)-0.6 (d)uo mae(o)..6 (er)-1.8 ()25.23 Tc 0 T

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, a party may contact the Deputy Title IX Coordinator at ocs@aacc.edu. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator. If the Title IX Coordinator is determined to have a conflict of interest or bias in a particular matter, the Deputy Title IX Coordinator will fulfill the role of the Title IX Coordinator for the specific Formal Complaint where the conflict or bias is alleged or the President may designate another Employee or external third party to serve in the role of the Title IX Coordinator.

Reports or Formal Complaints of Sexual Misconduct or Retaliation alleged to have been committed by the Title IX Coordinator should be submitted to the College President at presidentsline@aacc.edu. Reports or Formal Complaints of Sexual Misconduct or Retaliation committed by any other Title IX Team member should be submitted to the Title IX Coordinator.

6. Administrative Contact Information

Reports or Formal Complaints of alleged Policy and Procedures violations, or inquiries about or concerns regarding the Policy and Procedures, may be made to:

Title IX Coordinator
Student Union, Suite 2200
101 College Parkway
Arnold, MD 21012
(410) 777-1239
complianceofficer@aacc.edu

Deputy Title IX Coordinator
Student Union, Room 209
101 College Parkway
Arnold, MD 21012
(410) 777-1339
ocs@aacc.edu

The College has determined that the President and Vice Presidents are Officials with Authority to address and correct Sexual Misconduct and/or Retaliation. These Officials with Authority may also accept Reports or Formal Complaints on behalf of the College. Reports or Formal Complaints can be submitted to:

President
Ludlum 233
101 College Parkway
Arnold, MD 21012

(410) 777-1177

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Equal Employment Opportunity Commission (EEOC)
Baltimore Field Office
GH Fallon Federal Building
31 Hopkins Plaza, Suite 1432
Baltimore, MD 21201
Telephone: (800) 669-4000
Facsimile: (410) 209-2221
TTY: (800) 669-6820
Web: <http://www.eeoc.gov>

7. Reports and Formal Complaints of Sexual Misconduct and/or Retaliation

a. Reports

Any individual may provide Reports of Sexual Misconduct and/or Retaliation using any of the following options:

- Report allegations in writing or verbally. Such a Report may be made at any time (including during non-business hours) by using the telephone number, email address, or by mail to the office address, listed for the Title IX Coordinator, Deputy Title IX Coordinator or any other Official with Authority listed, or
- Report online, using the form posted at: [Online Incident Report Form](#).

If a Report is submitted, the Title IX Coordinator will contact the Complainant, if known, to discuss whether the Complainant wishes to file a formal complaint and to offer supportive measures.

- Visa and immigration assistance or resources
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
-

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 Title IX Coordinator will draft a written summary of the basis for the emergency removal and provide a copy to the Respondent prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under these Procedures to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under the Procedures will be grounds for discipline, which may include expulsion or termination.

The College will implement the least restrictive emergency removal 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: re-assigning a student to a different section of the same course (if available); temporarily re-assigning an employee; restricting a student's or employee's access to or use of classrooms, 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, or other college activities.

CFR Part 106, including the conducting of any investigation, hearing, or grievance process arising under the Policy and Procedures.

The College reserves the right to designate which College officials have a legitimate educational interest in being informed about incidents that fall within the Policy and Procedures, pursuant to FERPA on a case-by-case basis.

Only a small group of Employees who need to know will typically be told about the allegations in order to perform their job functions or protect the health and safety of the College community. Information will be shared as necessary with Investigators, Decision-Makers, Appeal Officers, witnesses, and the parties and their Advisors. The circle of people with this knowledge will be kept as tightly as possible to preserve the parties' rights and privacy.

The College may contact parents/guardians of individuals under the age of 18 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.

12. Jurisdiction of the College

The Policy and Procedures apply to the College's education program and activities, to conduct that takes place on the campus or on property owned or controlled by the College, at College-sponsored events, or in buildings owned or controlled by College's recognized student organizations.

The Policy and Procedures can also be applicable to the effects of off-campus Sexual Misconduct or Retaliation that effectively deprive someone of access to College's education program and activities. In such instances, the College may address the effects of the off-campus misconduct through supportive measures.

Regardless of where the conduct occurred, the College will address Reports to determine whether the conduct occurred in the context of its employment or education program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial College interest includes:

- a. 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;
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety to self or others;
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or

d. Any situation that is detrimental to 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

a. Prohibited Conduct

The sections below describe the specific forms of Sexual Harassment that are prohibited under the Policy and Procedures. Acts of Sexual Misconduct may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation, and/or gender identity of those involved.

- 1) *Gender-Based Discrimination* is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived sex, gender, sexual orientation or gender identity. Gender-based discrimination does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex, gender, sexual orientation or gender identity.

The College may act to remedy gender-based discrimination when reported, whether or not the discrimination rises to the level of creating a "hostile environment." When gender-based discrimination rises to the level of creating a hostile environment, the College may also impose sanctions on the Respondent through application of the Formal Grievance Process.

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive objectively offensive.

- 2) *Quid Pro Quo* is defined as an Employee of conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct.
- 3) *Sexual Harassment* is defined as unwelcome conduct determined by a reasonable person to be so severe, and pervasive, and objectively offensive that it effectively denies

- iii) *Forcible Sodomy* is defined as oral or anal sexual intercourse with another person, forcibly, against that person's will (non-consensually), or when the Complainant is incapable of giving consent because of

relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition—Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

- 6) *Domestic Violence* is defined as violence on the basis of sex committed by a current or

exploited, and that conduct does not otherwise constitute Sexual Misconduct under the Procedures.

Examples of Sexual Exploitation include, but are not limited to:

- i) Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person(s) being observed);
- ii) Invasion of sexual privacy;
- iii) Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of revenge pornography;
- iv) Pro

- x) Engaging in sex trafficking; and/or
- xi) Creation, possession, or dissemination of child pornography.

b. Additional Definitions

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

- 1) *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," "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.

- 2) *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.
- 3) *Consent* is knowing, voluntary, and clear

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.

Proof of consent or non-consent is not a burden placed on either person involved in an incident. Instead, the burden remains on the College to determine whether the Policy or Procedures have 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, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to bondage, discipline/dominance, submission/sadism, and masochism ("BDSM") 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 the College's evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy or procedures that assume non-kink relationships as a default.

- 4) *Incapacitated* means a person who cannot consent because the person is unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by al (a)-2.9 (p) (u)-0.6 (s)-)tr

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17. Mandated Reporting

A Mandated Reporter who is themselves a target of Sexual Misconduct or Retaliation under the Policy or Procedures is not required to report their own experience, though they are, of course, encouraged to do so.

b. Confidential Resources

The College has designated the following as Confidential Resources:

- On-campus licensed professional counselors and staff
- On-campus health service providers and staff
- Athletic trainers (if licensed and privileged under state statute, and/or working under the supervision of a health professional)

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat, danger or abuse to oneself or others when required to disclose by law or court order.

Employees who are Confidential Resources will timely submit anonymous statistical information for

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 Formal Grievance Process, if in the Title IX Coordinator's discretion, there may be a compelling risk to health and/or safety that requires the College to pursue formal action to protect the community.

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 for alleged misconduct.

Complainants or third parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, the College must issue timely warnings for incidents reported to the College 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.

20. False Allegations and Evidence

Deliberately false and/or malicious accusations under these Procedures, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Additionally, witnesses and parties who knowingly provide false evidence, tamper with or destroy evidence after being directed to preserve such evidence, or deliberately mislead a member of the Pool while conducting an investigation or making a determination can be subject to discipline under these Procedures.

21. Amnesty for Complainants and Witnesses

The College community encourages Complainants and witnesses to report Sexual Misconduct and/or Retaliation. Sometimes, Complainants or witnesses are hesitant to make a Report or Formal Complaint to the College or participate in grievance processes because they fear that they themselves may be in violation of certain policies (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced Sexual Misconduct to the Department of Public Safety and Police or the Health and Wellness Center). Respondents may hesitate to be forthcoming during the process for the same reasons.

Amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug

FORMAL GRIEVANCE PROCESS FOR ALLEGED VIOLATIONS OF THE SEXUAL MISCONDUCT POLICY AND PROCEDURES

1. Overview

The College will act on any Formal Complaint or Report of violation of the Policy and Procedures that is received by the Title IX Coordinator or any other Official with Authority by applying this Formal Grievance Process. If an Official with Authority receives a Formal Complaint or Report, the Official with Authority will submit the Formal Complaint or Report to the Title IX Coordinator as soon as practicable.

- a. If a Complainant wishes to submit a Formal Complaint or Report against the Title IX Coordinator, the Complainant may submit the Formal Complaint or Report to an Official with Authority, who will request that the President designate an Employee or external third party to serve as the Title IX Coordinator for purposes of these Procedures.
- b. If a Complainant wishes to submit a Formal Complaint or Report against the President, the Complainant may submit the Formal Complaint or Report to the Title IX Coordinator or an Official with Authority. In such circumstances, the Title IX Coordinator will submit the Formal Complaint to the Chair of the Board of Trustees, who will designate an external third party to serve as the Title IX Coordinator, the Investigator, and the Decision-Maker for purposes of this Process. The Chair

a. Process for Initial Assessment

The steps in an Initial Assessment include:

1. If a Report is made, the Title IX Coordinator will seek to determine if the Complainant wishes to make a Formal Complaint and will assist the Complainant to do so, if desired.
2. If the Complainant does not wish to file a Formal Complaint, the Title IX Coordinator will conduct an assessment to determine if there is a compelling threat to health or safety. If the Title IX Coordinator find as compelling threat, the Title IX Coordinator will dlt willle IX Coordor 001

- ii. If the Complainant wishes to pursue the Formal Grievance Process, the Title IX Coordinator will determine whether there are grounds for dismissal of all or part of the Formal Complaint. See Section on Dismissal.
 - a) If there are no grounds for dismissal, the Title IX Coordinator will initiate the Formal Grievance Process.
 - b) Based on the nature of the Formal Complaint, direct the investigation to address:
 - 1) an incident, and/or
 - 2) a pattern of alleged misconduct, and/or
 - 3) a culture/climate issue.

c. Dismissal

1. The Title IX Coordinator must dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:
 - i. The conduct alleged in the Formal Complaint would not constitute Sexual Misconduct or Retaliation within the scope of Title IX, even if proved;
 - ii. The conduct alleged did not occur in an education program or activity controlled by the College (including buildings or property controlled by recognized student organizations);
 - iii. The College does not have control of the Respondent;
 - iv. The conduct did not occur against a person in the United States; and/or
 - v. At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in the education program or activity of the College.
2. The Title IX Coordinator may dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:
 - i. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; or
 - ii. The Respondent is no longer enrolled in or employed by the College; or

interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-Maker.

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 Formal Grievance Process. The parties may choose Advisors from inside or outside of the College community.

1. To find an Advisor, Complainants may wish to contact organizations such as:
 - [The Victim Rights Law Center](#)
 - The [National Center for Victims of Crime](#) (which maintains the Crime Victim's Bar Association), or
 - The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legal-defense-fund/>.
2. To find an Advisor, Respondents may wish to contact organizations such as:
 - [FACE](#) or
 - [SAVE](#)

Any party who was enrolled as a student at the time of the incident alleged in the Formal Complaint is authorized to access counsel paid for by the Maryland Higher Education Commission ("MHEC") as the party's Advisor. To request an Advisor through MHEC, parties may visit: [MHEC Title IX Request and Advisor](#) or send an email to: TitleIXproceedings.mhec@maryland.gov.

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If a party chooses to have an Advisor assigned by the Title IX Coordinator, the Advisor will be trained by the College and be familiar with the College's resolution process. If the parties choose their own Advisor, 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 Formal Grievance Process, prior to a hearing.

The College is required to permit cross-examination of the Investigator(s), parties and witnesses during the hearing. Cross-examination may only be conducted by the parties' Advisors. The parties are not permitted to directly cross-examine each other or any witnesses. ~~Of legal counsel may be appointed by the parties.~~

a. Initial Investigation

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

- Commence a thorough, reliable, and impartial investigation by identifying issues and developing an

Prior to the submission of the draft investigation report to the parties and their Advisors, the Title IX Coordinator will require that each parties and their Advisor, if any, sign a non-disclosure agreement (“NDA”) that provides that the party or Advisor will not to disseminate the draft or final investigation report or any of the evidence included with the investigation report or use such evidence for any purpose unrelated to the Title IX grievance process. The NDA will not restrict the parties’ ability to discuss the allegations; however, the parties and Advisors will not be permitted to disclose the draft or final investigation report or the evidence collected during the investigation.

c. Draft Investigation Report

The Title IX Coordinator will send the draft investigation report, a copy of the evidence included in the investigation report by the Investigator and any evidence that was collected by the Investigator but was not included in the investigation report simultaneously to all parties, who have submitted a signed NDA, This information will be sent through secure electronic transmission or by hard copy. If the party has consented to submitting investigation reports to the party’s Advisor and the Advisor has submitted a signed NDA, the Title IX Coordinator will also send this information to the Advisor.

The Parties will be given an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the College does not intend to rely in reaching a determination, for a ten (10) Business Day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten (10) Business Days in writing. The parties should submit their comments and any additional evidence, names of witnesses or questions for witnesses directly to the Investigator(s).

d. Additional Investigation and Final Investigation Report

After review and comment period has expired, the Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

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- Incorporate any relevant feedback, finalize the investigation report and submit it to the Title IX Coordinator.

The Title IX Coordinator will send the final investigation report, a copy of the evidence included in the investigation report by the Investigator and any evidence that was collected by the Investigator but was not included in the investigation report simultaneously to all parties, who have submitted a signed NDA, This information will be sent through secure electronic transmission or by hard copy. If the party has consented to submitting investigation reports to the party's Advisor and the Advisor has submitted a signed NDA, the Title IX Coordinator will also send this information to the Advisor.

14. Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are Employees of the College are expected to cooperate with and participate in the College's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of these Procedures and may warrant discipline.

The parties and witnesses may be interviewed in-person, by telephone or through electronic means, such as via Skype, Zoom, FaceTime, WebEx, or similar technologies. The College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless all parties and the Decision-Maker 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 Decision-Maker do not assent to this section 3.7, ss(t)3.7, nia

A Decision-Maker will only be removed and replaced if the Title IX Coordinator concludes that the objection raised by a party shows that the Decision-Maker has a bias or conflict of interest that precludes an impartial hearing of the allegation(s).

A Decision-Maker may also recuse themselves if they believe they have a bias or conflict of interest that would limit their ability to hold an impartial hearing of the allegation(s) by notifying the Title IX Coordinator as soon as possible.

If the Decision-Maker is replaced by the Title IX Coordinator, the Title IX Coordinator will provide notice of the name of the new Decision-Maker to the parties in writing and the parties will be given three (3) Business Days to object in accordance with these Procedures.

c. Attending the Hearing Remotely or in Separate Rooms

If a party requests to attend remotely or seeking to have the parties located in separate rooms, the Title IX Coordinator will arrange to use technology to allow remote testimony without compromising the fairness of the hearing. The technology used must enable the Decision-Maker and parties to see and hear a party or witness answering questions.

If requested by the party, remote options may be provided for the party's Advisor or witnesses who cannot appear in person.

d. Disability Accommodations, Language Assistance and Interpretation Services

Upon request, the Title IX Coordinator will work with Disability Support Services, Human Resources or other appropriate offices or department to make arrangements for disability

The Decision-Maker will answer all questions of hearing procedure. The Decision-Maker may consult privately with legal counsel or the Title IX Coordinator, as needed.

Anyone appearing at the hearing to provide information, including Investigator(s), parties and witnesses, will respond to questions on their own behalf.

The Decision-Maker will allow witnesses who have relevant information to appear during the portion of the hearing when they are being questioned and will, then, be excused by the Decision-Maker.

Witnesses will not be permitted to be present at the hearing during the testimony of the parties or other witnesses.

Any evidence that the Decision-Maker determines is relevant and credible may be considered. The Decision-Maker will not consider the following to be relevant: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent; 4) the parties' prior sexual history with an individual other than the Complainant or Respondent, except to prove the source of injury, prove prior sexual misconduct, support a claim that a party has an ulterior motive, or impeach a party's credibility after that party has put their own sexual conduct at issue; and 5) a party's history of mental health counseling, treatment or diagnosis, unless the party consents.

Previous disciplinary action of any kind involving the Respondent may not be used to determine responsibility and may only be considered in determining an appropriate sanction after a determination of responsibility has been made.

After post-hearing deliberation, the Decision-Maker will render a written determination based on a preponderance of the evidence (*i.e.*, whether it is more likely than not that the Respondent violated the Policy and Procedures as alleged).

24. Joint Hearings

In hearings involving more than one (1) 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 and procedure violation.

25. The Order of the Hearing

The Decision-Maker will begin by stating that the hearing is being recorded and that by continuing to participate in the hearing, the parties and their Advisors are consenting to the recording. The Decision-Maker will state that no other recording of the hearing is permitted. The Decision-Maker will have everyone present at the hearing state their names on the record.

The Decision-Maker will explain the process. Each party's Advisor will be permitted to make an opening statement; the Investigator(s) will present their final investigation report and be subject to questioning; the party's Advisors will present evidence and question witnesses, who will be subject to cross-examination by the other party's Advisor; each party's Advisor will be permitted to make a closing argument; and then, the hearing will be closed and the Decision-Maker will deliberate.

26. Opening Statements

Each party's Advisor will be permitted to give an opening statement. The Decision-Maker will invite the Complainant's Advisor to give an opening statement first. Then, the Decision-Maker will invite the Respondent's Advisor to give an opening statement. If there is more than one Complainant or Respondent, the Decision-Maker will determine the order, which will be used throughout the hearing. Each party's Advisor, regardless of how many Complainants and Respondents are joined in the hearing, will be given no more than ten (10) minutes for their opening statement.

27. Investigator Presents the Final Investigation Report

After opening statements, the Decision-Maker will invite the Investigator(s) to 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 parties' Advisors. The Decision-Maker may ask questions at any time during the testimony of the Investigator(s). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties' Advisors nor the Decision-Maker should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigator(s), Advisors, and parties will

not required to testify. Witnesses are permitted to attend only for their testimony. When witnesses enter the hearing, the Decision-Maker will state that the hearing is being recorded and that by participating in the hearing, the witness is consenting to the recording. When the witness' testimony is complete, the witness will be excused from the hearing and asked not to disclose any of the matters discussed during the hearing.

The Advisor for the Complainant(s) may present information and call witnesses. The Advisor for the Complainant(s) may ask questions of the witnesses. The Advisor for the Respondent(s) may follow-up with any questions ("cross-examination").

The Advisor for the Respondent(s) may present information and call witnesses. The Advisor for the Complainant(s) may follow-up with cross-examination questions.

The Decision-Maker may ask questions at any time during witness testimony.

If the Decision-Maker has any follow up questions for the Investigator(s), the parties or any of the witnesses who testified, the Decision-Maker may request for the witness to rejoin the meeting to take more testimony.

All questions are subject to a relevance determination by the Decision-Maker. Advisors may make objections on the basis of relevance to the questions being asked of the Investigator(s), parties or witnesses. If an objection is made, the witness will not answer, and the Decision-Maker will determine whether the question will be permitted, disallowed, or rephrased. The Decision-Maker may permit the other party's Advisor to make arguments regarding relevance before ruling on the question. The Decision-Maker will then state their decision on the question for the record and advise (r)-7Tc 0 Tw []2 (D.7 79)Tj -0.002

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the hearing, or they attend but refuse to participate in questioning, then the Decision-

standard of proof is used. If the Decision-Maker determines that the Respondent(s) is responsible for one (1) or more of the allegations, the Decision-Maker will request that the Title IX Coordinator provide a copy of any pertinent prior disciplinary records to the Decision-Maker for purposes of sanctioning.

The Decision-Maker will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence relied on, credibility assessments, and

The Notice of Outcome will state that the decision is final, unless appealed, and will include the relevant appeal procedures.

disciplinary sanctions in the event that the employee 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 College

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 or may continue at the time that the Respondent seeks to enroll in courses at the College.

b. Employees

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- (B) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; and
- (C) 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 Procedures, the Appeal Officer will dismiss the appeal at the Review for Standing and submit a written decision of dismissal to the Title IX Coordinator, setting forth the rationale for dismissal. The written decision of dismissal will be reviewed by legal counsel. The Title IX Coordinator will send a copy of the written decision to dismiss to the parties and their Advisors.

If any of the grounds in the Request for Appeal meet the grounds set forth above, then the Appeal Officer will submit a written notification to the Title IX Coordinator that the appeal will proceed and specify which grounds will be permitted to proceed. If the Appeal Officer has determined that some grounds asserted in the Request for Appeal do not meet the grounds set forth above, the written notification will state any grounds that the Appeal Officer has dismissed and the rationale for the dismissal. The written decision of dismissal will be reviewed by legal counsel.

When all or part of the Request for Appeal is permitted to proceed, the Title IX Coordinator will send the written notification to all parties and their Advisors and will include a copy of the Request for Appeal to the other party or parties ("Non-Appealing Party"), including any written decision of dismissal of part of the Request for Appeal. When appropriate, the Title IX Coordinator may send the Request for Appeal and written notification to the Investigator(s) and/or the original Decision-Maker. Notices will be mailed, emailed, and/or delivered in person.

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The Appeal Officer may collect any additional information needed. If additional information is collected, all parties will be provided with a copy of the information. If the Decision-Maker would like to review the recording of the hearing, the Decision-Maker may request a copy of the recording or a transcript of the recording.

The Appeal Officer will apply the clear error standard of review and will prepare a Notice of Appeal Outcome and submit it to the Title IX Coordinator. The Notice of Appeal Outcome will be reviewed by legal counsel. The Appeal Officer will render a decision within ten (10) Business Days from the date the Title IX Coordinator sent the responses and/or replies, if any, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

The Notice of Appeal Outcome will be sent to all parties simultaneously, including the decision on each permitted ground and rationale. The Notice of Appeal Outcome will specify the finding on each

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37. Long-Term Remedies

Following the conclusion of the resolution process, and in addition to any sanction(s) implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the Sexual Misconduct and/or Retaliation, remedy the effects, and prevent reoccurrence.

These remedies 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 or Procedure 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, or other academic accommodations; and/or
- Any other remedy, as deemed appropriate.

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

When no policy or procedure violation is found, the Title IX Coordinator will address any remedies that may be applied to the Respondent to ensure no effective denial of educational access.

The College will maintain the privacy of any long-term remedies or supportive measures, provided privacy does not impair the College's ability to provide these remedies or supportive measures.

38. Failure to Comply with Sanctions and/or Long-Term Remedies

All Respondents are expected to comply with the assigned sanctions, emergency removal, supportive measures and long-term remedies within the timeframe specified by the Decision-Maker (including the Appeal Officer).

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

APPENDIX A