



## ROLLINS COLLEGE POLICY

Title: Title IX Grievance Policy for Addressing Discrimination on the Basis of Sex, Including Sexual Harassment	Type	Key Institutional (KI)
No: KI 1026		Approval Date: 8-14-2020
Responsible Office: VP for Student Affairs		Reviewed By: Policy Committee, 8-10-2020; President's Cabinet, 8-11-2020; Approved By: President, 8-11-2020
Next Review: 2021-2022		Revision No: Original

### I. Policy Statement/Introduction

#### **A. Purpose**

Title IX of the Educational Amendments of 1972 (Title IX) prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education (ED), which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access Rollins College's educational programs and opportunities.

On May 19, 2020, ED issued a Final Rule under Title IX of the Education Amendments of 1972 that:

- defines the meaning of "sexual harassment" (including forms of sex-based violence);
- addresses how this institution must respond to reports of misconduct falling within that definition of sexual harassment; and
- Mandates a grievance process that this institution 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, 85 Fed. Reg. 30026 (May 19, 2020), and its extensive Preamble are available at <http://bit.ly/TitleIXReg> (click link to access). Based on the Final Rule, Rollins College (the College) approved and will implement KI 1026 *Title IX Grievance Policy for Addressing Discrimination on the Basis of Sex, Including Sexual Harassment* (Title IX Grievance Policy), effective August 14, 2020.

#### **B. Impact on other Campus Disciplinary Policies**

In recent years, "Title IX" cases have become a short-hand for any campus complaint, investigation, and adjudication process involving sex-based discrimination, including those arising from sexual harassment and sexual assault. However, under the Final Rule, the College must narrow both the geographic scope of its authority to act under Title IX and the types of "sexual harassment" that it must subject to its Title IX investigation and adjudication process. Only incidents of discrimination on the basis of sex including sexual harassment as defined herein will be investigated pursuant to this policy and, if appropriate, brought to a live hearing through the Title IX Grievance Policy defined below.

The College remains committed to addressing any violations of its other policies, even those not meeting the narrow standards defined in this policy pursuant to the Title IX Final Rule.

Specifically, our campus has the following policies in place.

- A [Code of Community Standards](#) (click link to access) that defines certain behavior by students as a violation of campus policy.
- A separate [Sexual and Gender-Based Harassment and Related Misconduct Policy](#) (click link to access) for students and employees that addresses the types of sex-based offenses constituting a violation of campus policy and the procedures for investigating and adjudicating those sex-based offenses.

- A [Sexual Harassment Policy](#) (click link to access), [Discrimination Grievance Procedure for Exempt and Non-Exempt Staff or Faculty](#) (click link to access), and [Discrimination Grievance Procedure for Students Reporting of Faculty or Staff](#) (click link to access) for incidents involving employees that address the types of sex-based offenses constituting a violation of campus policy and the procedures for investigating and adjudicating those sex-based offenses.

To the extent that alleged misconduct falls outside the Title IX Grievance Policy, or misconduct falling outside the Title IX Grievance Policy is discovered in the course of investigating covered Title IX misconduct, the College retains authority to investigate and adjudicate the allegations under the policies and procedures defined within College policies KI 1014 *Sexual and Gender-Based Harassment and Related Misconduct*, HR 7450 *Sexual Harassment Policy*, HR 7420 *Discrimination Grievance Procedure for Exempt and Non-Exempt Staff or Faculty*, HR 7440 *Discrimination Grievance Procedure for Students Reporting of Faculty or Staff*, or *Code of Community Standards* through a separate grievance proceeding.

## **II. General Rules of Application**

### **A. Effective Date**

This policy, KI 1026 *Title IX Grievance Policy for Addressing Discrimination on the Basis of Sex, Including Sexual Harassment*, is effective August 14, 2020, but may be amended at any time thereafter at the discretion of the College.

### **B. Non-Discrimination in Application**

The requirements and protections of this policy apply equally regardless of sex, gender, gender identity, gender expression, sexual orientation, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or Witness. Individuals who wish to file a complaint about the College's policy or process may contact the Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr> (click link to access).

### **C. Freedom of Expression**

Freedom of expression and principles of academic freedom are central to the mission of institutions of higher education. The right to free expression cannot be considered sexual harassment under this Policy; however, sexual harassment is not a proper exercise of free expression. Any concerns about curriculum or course content should be directed to the Dean of the Faculty, Dean of the Hamilton Holt School, or Dean of the Crummer Graduate School of Business.

## **III. Definitions**

### **A. Discrimination on the Basis of Sex**

Discrimination on the basis of sex is any distinction, preference, or detriment to an individual as compared to others that is based on an individual's sex, gender, gender identity, gender expression, sexual orientation, or pregnancy/pregnancy-related condition and that is sufficiently serious to unreasonably interfere with or limit the following.

- Access to employment or conditions and benefits of employment (e.g., hiring, advancement, assignment).
- Ability to participate in, access, or benefit from the College's education program or activity (e.g., admission, academic standing, grades, campus housing, athletics).
- Receipt of legitimately requested services (e.g., disability or religious accommodations).

### **B. Sexual Harassment**

For the purposes of this Title IX Grievance Policy, sexual harassment includes any conduct on the basis of sex that satisfies one or more of the following.

1. Conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo).
2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity.

3. Sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.
  - a. Rape: The 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 the consent of the victim.
  - b. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
  - c. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - d. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.
4. Dating violence (as defined in the Violence Against Women Act, VAWA, amendments to the Clery Act), which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.
5. Domestic violence (as defined in the VAWA amendments to the Clery Act), which includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under Florida's domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Florida.
6. Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to – (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

Note that conduct that does not meet one or more of these criteria may still be prohibited under KI 1014 *Sexual and Gender-Based Harassment and Related Misconduct Policy* or other College policies.

### **C. Consent**

For the purposes of this Policy, consent means a voluntary, mutually understandable agreement that indicates a willingness to engage in each instance of sexual activity. Consent is the communication of an informed, knowing, voluntary, and ongoing decision; free from coercion or pressure; and made by each participant to a sexual encounter. Consent is gained when all parties involved exchange mutually understandable, affirmative words or clear, unambiguous behavior or actions indicating agreement to freely participate in sexual contact.

Consent can be withdrawn at any time. Consent to one act does not imply consent to another. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent to sexual contact on one occasion is not consent to engage in sexual contact on another occasion. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent. Consent cannot be inferred from silence, passivity, or a lack of resistance, or lack of an active response alone.

Consent is not present if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation, or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to engage in sexual activity.

### **D. Incapacitation**

Incapacitation is the inability, temporarily or permanently, to give consent because an individual is mentally and/or physically helpless, either voluntarily or involuntarily, or an individual is unconscious, asleep, or otherwise unaware that

the sexual activity is occurring. An individual may be incapacitated if they are unaware at the time of the incident of where they are, how they got there, or why or how they became engaged in a sexual interaction.

When alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. When drug use is involved, incapacitation is a state beyond being under the influence or impaired by use of the drug. Alcohol and other drugs impact each individual differently and determining whether an individual is incapacitated requires an individualized determination.

Anyone engaging in sexual contact must be aware of both their own and the other person's level of intoxication and capacity to give consent. If there is any doubt as to the level or extent of one's own or another individual's intoxication or incapacitation, the safest course of action is to forgo or cease any sexual contact.

#### **E. Education Program or Activity**

For the purposes of this policy, the College's education program or activity includes the following:

- any on-campus premises;
- any off-campus premises that the College has substantial control over, including buildings or property owned or controlled by a recognized student organization; and
- activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the College's programs and activities over which the College has substantial control.

#### **F. Formal Complaint**

For the purposes of this Policy, Formal Complaint means a document – including an electronic submission – filed by a Complainant with a signature or other indication that the Complainant is the person filing the Formal Complaint, or signed by the Title IX Coordinator, alleging discrimination on the basis of sex or sexual harassment against a Respondent about conduct within the College's education program or activity and requesting initiation of the procedures consistent with this Policy to investigate the allegation of discrimination on the basis of sex or sexual harassment.

#### **G. Complainant**

For the purposes of this Policy, Complainant means any individual who has reported being or is alleged to be the victim of conduct that could constitute covered sexual harassment as defined under this policy.

#### **H. Relevant Evidence and Questions**

Relevant evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true.

Though not exhaustive of the kinds of evidence or questions that may be deemed irrelevant, relevant evidence and questions do not include the following types of evidence and questions, which are deemed irrelevant at all stages of the Title IX Grievance Process.

- Evidence and questions about the Complainant's sexual predisposition or prior sexual behavior unless:
  - They are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or
  - They concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege. Examples of legally recognized privileges include but are not limited to attorney-client privilege, physician-patient privilege, and religious privilege.
- Any party's medical, psychological, and similar records unless the party has given voluntary, written consent.

### **I. Respondent**

For the purposes of this policy, Respondent means any individual who has been reported to be the perpetrator of conduct that could constitute covered sexual harassment as defined under this policy.

### **J. Privacy vs. Confidentiality**

References made to *confidentiality* refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or College officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child/elder abuse. References made to *privacy* mean the College offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for offering supportive measures, tracking patterns, and spotting systemic issues. The College will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that a Complainant's request for confidentiality cannot be honored.

### **K. Disability Accommodations**

This policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities from the Title IX Coordinator at any point before or during the Title IX Grievance Process that do not fundamentally alter the process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities. When requested, the Title IX Coordinator will work with the Office of Accessibility Services and the individual to ensure that reasonable and timely accommodations are provided.

### **L. Business Day**

A business day is any weekday when Rollins College offices are open for business that is not designated as a holiday or College closure day.

## **IV. Making a Report to the College Regarding Covered Sexual Harassment**

### **A. General Statement Empowering Community**

This policy distinguishes between *reporting* incidents of discrimination on the basis of sex or sexual harassment and *filing Formal Complaints*. Reporting incidents of discrimination on the basis of sex or sexual harassment informs the College of the incident, which allows the institution to provide supportive measures to the Complainant and does not necessarily result in the initiation of the formal grievance process or informal resolution process. The College recognizes that deciding whether to make a report and choosing how to proceed are personal decisions. At the time a report is made, a Complainant does not have to decide whether to request any particular course of action. Choosing to make a report, and deciding how to proceed after making a report, is a process that unfolds over time. The College will make every effort to respect an individual's autonomy in making the determination as to how to proceed. Resources and supportive measures are always available to support a Complainant regardless of the course of action chosen at the time of reporting. There is no time limit on reporting or the entitlement to access resources and supportive measures under this Policy.

Anyone who has been impacted by discrimination on the basis of sex or sexual harassment is encouraged to make a report, regardless of when or where the incident occurred, and to seek any necessary help from campus or community resources. An incident does not have to occur on campus to be reported to the College. The College assists and provides resources and supportive measures to both the Complainant and the Respondent in obtaining information about options under this Policy and seeking confidential support in the event that a report of discrimination on the basis of sex or sexual harassment is made.

### **B. Reporting to the Title IX Coordinator**

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by

mail, by telephone, by electronic mail, or by online reporting form using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made to the Title IX Coordinator at any time (including during non-business hours) by telephone, electronic mail, online reporting form, or by mail.

**Contact Information for the Title IX Coordinator:**

Sarah Laake, Director, Office of Title IX  
Office Location: 170 W. Fairbanks Avenue, 1<sup>st</sup> Floor, Student Care Suite  
Mailing Address: 1000 Holt Avenue, Box 2776, Winter Park, FL 32789  
[titleix@rollins.edu](mailto:titleix@rollins.edu) | [slaake@rollins.edu](mailto:slaake@rollins.edu) | 407-691-1773 | [rollins.edu/tixreporting](http://rollins.edu/tixreporting)

**Contact Information for the Deputy Title IX Coordinators:**

Matt Hawks, Associate Vice President, Human Resources & Risk Management  
Office Location: Troutman Building, 2<sup>nd</sup> floor  
Mailing Address: 1000 Holt Avenue, Box 2718, Winter Park, FL 32789  
407-646-2577 | [mhawks@rollins.edu](mailto:mhawks@rollins.edu)

Pennie Parker, Director of Athletics  
Office Location: Alford Sports Center, 2<sup>nd</sup> Floor  
Mailing Address: 1000 Holt Avenue, Box 2730, Winter Park, FL 32789  
407-646-2636 | [pparker@rollins.edu](mailto:pparker@rollins.edu)

**C. Officials with Authority**

Under Title IX, the staff of the following offices are considered officials with authority to institute corrective measures on behalf of the College. As such, a report made to any of these offices conveys actual knowledge to the College of sexual harassment as defined under Title IX. The following officials will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited under this policy:

- [Campus Safety](#) (available 24/7/365): 407-646-2999
- [Title IX Coordinator](#): 407-691-1773
- [Community Standards & Responsibility](#): 407-691-1337
- [Dean of Students](#): 407-646-2345
- [Human Resources Department](#): 407-646-2369
- [Dean of the Faculty](#): 407-691-1268
- [Dean of Crummer Graduate School of Business](#): 407-646-2249
- [Dean of Hamilton Holt School](#): 407-691-1349
- [Director of Athletics](#): 407-646-2636

**D. Required Reporters**

The College encourages all community members to report information about discrimination on the basis of sex or sexual harassment involving a student, staff, or faculty member. The College is committed to providing reporting opportunities through multiple contact points across campus that are broadly accessible to all community members. With the exception of the confidential resources outlined in this policy, all Rollins faculty, staff, and some student staff (including resident assistants and peer mentors) are considered Required Reporters and must share disclosures of discrimination on the basis of sex, sexual harassment, sexual assault, dating violence, domestic violence, and stalking with the Title IX Coordinator. College faculty and staff are trained on their reporting obligations, and students are informed of these obligations via the disclosure statement on classroom syllabi and in various other training programs including orientation.

Required Reporters will safeguard an individual's privacy, but are required to immediately share all details about a report of prohibited conduct, including the known details of the incident (e.g., date, time, location), the names of the parties involved, a brief description of the incident and if the incident has been previously reported, with the Title IX Coordinator or Deputy Title IX Coordinator in person, by telephone, by email, or using the College's [Sexual and Gender-Based Harassment and Misconduct Online Reporting Form](#) (*click link to access*). Required Reporters must not submit the Sexual and Gender-Based Harassment and Misconduct Online Reporting Form anonymously.

Such reporting ensures timely support for all parties and enables an effective and consistent institutional response to sexual and gender-based discrimination, harassment, and misconduct. Failure by a required reporter to report information timely may result in disciplinary action.

#### **E. Confidential Support and Resources**

Students may discuss an incident with confidential employees or an off-campus resource (e.g., rape crisis center, doctor, psychologist, counselor, clergy person, attorney, etc.) without concern that the person's identity will be reported to the Office of Title IX. Employees may seek assistance from the Employee Assistance Program or an off-campus resource (e.g., rape crisis center, doctor, psychologist, counselor, clergy person, attorney, etc.) without concern that the person's identity will be reported to the Office of Title IX. The following officials may provide confidentiality.

##### **Rollins Wellness Center**

118 W. Fairbanks Avenue Winter Park, FL 32789  
407-628-6340 (Monday-Friday 8:30am-5:00pm)  
833-848-1761 (After-Hours Crisis Phone)  
[wellnesscenter@rollins.edu](mailto:wellnesscenter@rollins.edu)  
[rollins.edu/wellness-center](http://rollins.edu/wellness-center)

##### **Dean of Religious and Spiritual Life**

Reverend Katrina Jenkins  
Knowles Memorial Chapel  
407-646-2440  
[kejenkins@rollins.edu](mailto:kejenkins@rollins.edu)  
[rollins.edu/religious-spiritual-life](http://rollins.edu/religious-spiritual-life)

##### **Cornell Counseling Clinic (For Holt and Crummer Students)**

Cornell Social Sciences Building, 2<sup>nd</sup> Floor  
407-646-2134  
[counseling@rollins.edu](mailto:counseling@rollins.edu)  
[rollins.edu/counseling/cornell-counseling-clinic](http://rollins.edu/counseling/cornell-counseling-clinic)

##### **Confidential Faculty**

Caitlyn Bennett, Ph.D.: [cbennett@rollins.edu](mailto:cbennett@rollins.edu); 407-691-1708; Cornell Social Sciences Building 251  
Kathryn Norsworthy, Ph.D.: [knorsworthy@rollins.edu](mailto:knorsworthy@rollins.edu); 407-646-2132; Cornell Social Sciences Building 239  
Samuel Sanabria, Ph.D.: [ssanabria@rollins.edu](mailto:ssanabria@rollins.edu); 407-646-2352; Cornell Social Sciences Building 238

Please note that outside of the confidential faculty listed above, faculty, including adjuncts, or staff working outside the College's Wellness Center who hold active mental health licensure *are not* acting within the scope of their licensure when performing teaching responsibilities or duties of employment. These individuals *are not* considered confidential resources under this policy and should act within the scope of their required reporter reporting obligations if they learn about discrimination on the basis of sex, sexual harassment, sexual assault, dating violence, domestic violence, or stalking impacting a member of the campus community.

#### **F. Parties' Rights Regarding Confidentiality, Requests to Not Investigate, and Requests to Dismiss Formal Complaints**

Required Reporters who receive information of alleged discrimination on the basis of sex, sexual harassment, sexual assault, dating violence, domestic violence, or stalking must share that information with the Title IX Coordinator. In certain limited incidents, the College may need to act to maintain campus safety and must determine whether to

investigate further, regardless of the Complainant's request for confidentiality or request to not investigate a report received by the Title IX Coordinator.

In making determinations regarding requests for confidentiality, a Complainant's request to not investigate, a Complainant's request to dismiss a Formal Complaint, and/or request to not disclose identifying information to a Respondent, the Title IX Coordinator must deliberately weigh the rights, interests, and safety of the Complainant, the Respondent, and the campus community. Factors the College must consider when determining whether to investigate an alleged incident of discrimination on the basis of sex or sexual harassment include but are not limited to the following:

- the seriousness and severity of the allegations;
- the use of force or threat of force by the Respondent;
- the use of a weapon by the Respondent;
- whether the College has received other reports of alleged discrimination on the basis of sex or sexual harassment by the Respondent; or
- whether the alleged incident poses a risk of harm to others;
- any other factors the College determines relevant.

If the Complainant requests that the College not investigate a report, the Complainant will be informed, whenever possible, of any action the College takes to resolve the complaint, including further investigation and corrective or disciplinary steps. Outside of these compelling circumstances, the College is typically able to honor a Complainant's request not to investigate.

If the College dismisses a Formal Complaint as outlined in this policy, the College must provide the Complainant and Respondent a written notice of the dismissal and the reason(s) for the dismissal.

In the course of the grievance process, the College may share information only as necessary with people who need to know in compliance with the law, which may include but is not limited to the Investigators, Witnesses, Complainant, Respondent, Parties' advisors, hearing chair(s), and the appellate officer – if applicable. The College will take all reasonable steps to ensure there is no retaliation against the Parties or any other participants in an investigation or any other part of the grievance process.

## **V. Non-Investigatory Measures Available Under the Title IX Grievance Policy**

### **A. Supportive Measures**

The College will offer reasonably available individualized services, without any fee or charge, to the parties involved in a reported incident of discrimination on the basis of sex or sexual harassment, with or without the filing of a Formal Complaint, when applicable. Supportive measures may include but are not limited to counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, withdrawal from or retake of a class without penalty, campus escort services, mutual restrictions on contact between the parties (no contact orders), changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, or other similar measures tailored to the individualized needs of the parties. Supportive measures are non-disciplinary and non-punitive measures that do not unreasonably burden the other party. The College will maintain the confidentiality of supportive measures provided to the parties to the extent that maintaining such confidentiality does not impair the ability of the College to provide the supportive measures.

### **B. Emergency Removal for Students**

The College retains the authority to remove a student, student organization, group, or team from the College's education program or activity on an emergency basis, where the College (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual harassment justifies a removal. If the College determines such removal is



necessary, the student, student organization, club, or team will be provided written notice and an opportunity to challenge the decision immediately following the removal.

Emergency removal will follow the interim administrative hold process as described in the [Code of Community Standards](#) (*click link to access*). The Vice President for Student Affairs or designee may initiate this process. During an emergency removal/interim administrative hold, students may be denied access to the residence halls and/or to the campus (including classes) and/or all other College activities or privileges for which the student might otherwise be eligible. Student organizations, groups, or teams will be denied privileges for which the organization, group, or team might otherwise be eligible.

Emergency removal/interim administrative holds may be appealed to the Vice President for Student Affairs or designee immediately at the time specified in the emergency removal notice.

### **C. Administrative Leave for Employees**

The College retains the authority to place a non-student employee Respondent on administrative leave during the Title IX Grievance Process. Decisions will be made regarding employee administrative leave by the Title IX Coordinator, Associate Vice President of Human Resources, appropriate Dean, and/or appropriate Vice President or designee.

## **VI. Title IX Grievance Process**

### **A. Filing a Formal Complaint**

The timeframe for the Title IX Grievance Process begins with the filing of a Formal Complaint. The Grievance Process will be concluded within a reasonably prompt manner, and no longer than ninety (90) business days after the filing of the Formal Complaint, provided that the Process may be extended for a good reason, including but not limited to the absence of a party, a party's advisor, or a Witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The procedure for applying for extensions is described below.

To file a Formal Complaint, a Complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged. Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of the College, including as an employee. For Complainants who do not meet these criteria, College Policy KI 1014 *Sexual and Gender-Based Harassment and Related Misconduct* will be employed.

If a Complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine a Formal Complaint is necessary. The College will inform the Complainant of this decision in writing, and the Complainant need not participate in the process further but will receive all notices issued under this Policy and Process.

Nothing in the Title IX Grievance Policy or College Policy KI 1014 *Sexual and Gender-Based Harassment and Related Misconduct* prevents a Complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process.

### **B. Informal Resolution Option of Certain Formal Complaints**

A Complainant who files a Formal Complaint may elect, at any time, to address the matter through the College's Informal Resolution Process. All Parties to a Formal Complaint may voluntarily agree to enter the Informal Resolution Process through execution of an informed written consent. The College will not require students or employees to waive their right to a formal grievance process as a condition of enrollment, employment, or enjoyment of any other right. In cases where informal resolution may be appropriate after thorough evaluation by the Title IX Coordinator or appropriate designee, voluntary and mutual participation from all of the parties involved is required. If voluntary and mutual participation by all parties cannot be gained, informal resolution is not an option.

An informal resolution entails the parties forgoing the grievance process (including the investigation and hearing, depending on when the parties agree to engage in an informal resolution). At any point prior to the final informal

resolution agreement (outcome) being reached, each party has a right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint.

An informal resolution may include but is not limited to an educational conference for the Respondent, educational requirements for the Respondent, mediation where appropriate, and other individualized options for alternative dispute resolution depending on the situation. Informal resolutions can result in educational and/or disciplinary sanctions.

### **1. Informal Resolution Availability**

Informal resolution is not available in all situations and is subject to the approval of the Title IX Coordinator or appropriate designee. The Title IX Coordinator, in consultation with other appropriate administrators, will consider the allegations in their totality and take into consideration the factors outlined in Section VIII of this Policy to determine whether informal resolution is a viable option. The informal resolution process is not permitted in cases where the Formal Complaint alleges sexual harassment committed by an employee against a student. Informal resolution is not available where the Respondent has previously participated in the informal resolution process and where that process resulted in a mutual agreement.

### **2. Informal Resolution Timeframe**

Written notice that the parties wish to proceed with an informal resolution process will “pause” the formal grievance process timeframe, which would resume should the parties choose to stop the informal resolution process and continue with the grievance process.

### **3. Informal Resolution Documentation**

Any final informal resolution agreement pursuant to the informal resolution process will be documented and kept for seven years as required by law. However, no recording of the informal resolution process will be made, and all statements made during the informal resolution process may not be used for or against either party. Should the parties resume the grievance process, the hearing body and appellate officer may not consider any such statement made during informal resolution.

### **4. Facilitators**

Individuals facilitating an informal resolution process must be free from conflicts of interest, bias, and trained to serve impartially. The Title IX Coordinator or appropriate designee will assign an appropriate facilitator based on the circumstances of the case and type of informal resolution requested. Informal resolution facilitators may be employees of the College or external consultants hired by the College. Facilitators of informal resolution processes may not serve as witnesses in any subsequent formal grievance process proceedings should the parties choose to stop the informal resolution process and continue with the grievance process.

### **5. Failure to Comply**

Failure to comply with an informal resolution agreement may result in disciplinary action through the Office of Community Standards for students or the appropriate Dean’s Office or Department in conjunction with Human Resources for employees.

## **C. Multi-Party Situations**

The College may consolidate Formal Complaints alleging covered sexual harassment 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 covered sexual harassment arise out of the same facts or circumstances.

## **D. Determining Jurisdiction**

The Title IX Coordinator or designee will determine if the Title IX Grievance Process should apply to a Formal Complaint. The Title IX Grievance Process will apply when all of the following elements are met, in the reasonable determination of the Title IX Coordinator:

1. the conduct is alleged to have occurred in the United States;
2. the conduct is alleged to have occurred in the College’s education program or activity; and

3. the alleged conduct, if true, would constitute discrimination on the basis of sex or sexual harassment as defined in this policy.

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

### **1. Allegations Potentially Falling Under Two Policies**

If the alleged conduct, if true, includes conduct that would constitute discrimination on the basis of sex or sexual harassment as defined in this policy and conduct that would not constitute covered discrimination on the basis of sex or sexual harassment, the Title IX Grievance Process will be applied in the investigation and adjudication of all of the allegations.

### **2. Mandatory Dismissal**

If any one of these elements are not met, the Title IX Coordinator or designee will notify the parties that the Formal Complaint is being dismissed for the purposes of the Title IX Grievance Policy. Each party may appeal this dismissal using the procedure outlined in "Appeals," below.

### **3. Discretionary Dismissal**

The Title IX Coordinator or designee may dismiss a Formal Complaint brought under the Title IX Grievance Policy, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:

- a. Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint, or any allegations raised in the Formal Complaint;
- b. Respondent is no longer enrolled or employed by the College; or
- c. specific circumstances prevent the College from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

Any party may appeal a dismissal determination using the process set forth in "Appeals," below.

### **4. Notice of Dismissal**

Upon reaching a decision that the Formal Complaint will be dismissed, the College will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, simultaneously to the parties through their institutional email accounts. It is the responsibility of parties to maintain and regularly check their email accounts.

### **5. Notice of Removal**

Upon dismissal for the purposes of Title IX, the College retains discretion to utilize College Policy KI 1014 *Sexual and Gender-Based Harassment and Related Misconduct*, College Policy HR 7450 *Sexual Harassment*, College Policy HR 7420 *Discrimination Grievance Procedure for Exempt and Non-Exempt Staff and Faculty*, College Policy HR 7440 *Discrimination Grievance Procedure for Students Reporting of Faculty or Staff*, the *Code of Community Standards*, and/or other relevant College policies to determine if a violation of these policies has occurred. If so, the College will promptly send written notice of the dismissal of the Formal Complaint under the Title IX Grievance Process and removal of the allegations to the appropriate process under one of the aforementioned policies.

## **E. Notice of Allegations**

The Title IX Coordinator will draft and provide the Notice of Allegations to any party to the allegations of discrimination on the basis of sex or sexual harassment. Such notice will occur as soon as practicable after the College receives a Formal Complaint of the allegations, if there are no extenuating circumstances.

The College will provide reasonable time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

The Title IX Coordinator or designee may determine that the Formal Complaint must be dismissed on the mandatory grounds identified above and will issue a Notice of Dismissal. If such a determination is made, any party to the

allegations of sexual harassment identified in the Formal Complaint will receive the Notice of Dismissal in conjunction with, or in separate correspondence after, the Notice of Allegations.

### **1. Contents of Notice**

The Notice of Allegations will include the following.

- Notice of the College's Title IX Grievance Process, including any informal resolution process and a hyperlink to a copy of the process.
- Notice of the allegations potentially constituting covered discrimination on the basis of sex or sexual harassment, and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the Complainant; the conduct allegedly constituting covered discrimination on the basis of sex or sexual harassment; and the date and location of the alleged incident, if known.
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a Determination Regarding Responsibility is made at the conclusion of the grievance process.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the College does not intend to rely in reaching a Determination Regarding Responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source.
- A statement that knowingly making false statements or knowingly submitting false information during the grievance process is prohibited and subject to disciplinary action.
- A statement prohibiting retaliation.

### **2. Ongoing Notice**

If, in the course of an investigation, the College decides to investigate allegations about the Complainant or Respondent that are not included in the Notice of Allegations and are otherwise covered discrimination on the basis of sex or sexual harassment falling within the Title IX Grievance Policy, the College will notify the parties whose identities are known of the additional allegations. The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

### **F. Advisor of Choice and Participation of Advisor of Choice**

The College will provide the parties equal access to advisors and support persons; any restrictions on advisor participation will be applied equally.

The College has a long-standing practice of requiring students to participate in the process directly and not through an advocate or representative. Students participating as Complainant or Respondent in this process may be accompanied by an Advisor of Choice to any meeting or hearing to which they are required or are eligible to attend. The Advisor of Choice is not an advocate. Except where explicitly stated by this Policy, as consistent with the Final Rule, Advisors of Choice shall not participate directly in the process as per standard policy and practice of the College.

The College will not intentionally schedule meetings or hearings on dates where the Advisors of Choice for all parties are not available, provided that the Advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

The College's obligations to investigate and adjudicate in a prompt timeframe under Title IX and other college policies apply to matters governed under this Policy, and the College cannot agree to extensive delays solely to accommodate the schedule of an Advisor of Choice. The determination of what is reasonable shall be made by the Title IX Coordinator or designee. The College will not be obligated to delay a meeting or hearing under this process more than five (5) days

due to the unavailability of an Advisor of Choice, and may offer the party the opportunity to obtain a different Advisor of Choice or utilize one provided by the College.

#### **G. Notice of Meetings and Interviews**

The College will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

#### **H. Delays**

Each party may request a one-time delay in the Grievance Process of up to five (5) days for good cause (granted or denied in the sole judgment of the Title IX Coordinator, Director of Student Conduct, or designee) provided that the requestor provides reasonable notice and the delay does not overly inconvenience other parties.

For example, a request to take a five (5) day pause made an hour before a hearing for which multiple parties and their advisors have traveled to and prepared for shall generally not be granted, while a request for a five (5) day pause in the middle of investigation interviews to allow a party to obtain certain documentary evidence shall generally be granted.

The Title IX Coordinator or designee shall have sole judgment to grant further pauses in the Process.

#### **I. Investigation**

##### **1. General Rules of Investigations**

An Investigator designated by the Title IX Coordinator will perform an investigation under a reasonably prompt timeframe of the conduct alleged to constitute covered sexual harassment after issuing the Notice of Allegations. The College, and not the parties, has the burden of proof and the burden of gathering evidence, i.e., the responsibility of showing a violation of this policy has occurred. This burden does not rest with the parties, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from the College and does not indicate responsibility.

The College cannot access, consider, or disclose medical records without a waiver from the party (or parent, if student is a minor) to whom the records belong or for whom the records include information. The College will provide an equal opportunity for the parties to present Witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e., evidence that tends to prove and disprove the allegations) as described below.

##### **2. Inspection and Review of Evidence**

Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

- a. evidence that is relevant, even if that evidence does not end up being relied upon by the College in making a Determination Regarding Responsibility;
- b. inculpatory or exculpatory evidence (i.e., evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

All parties must submit any evidence they would like the Investigator to consider prior to when the parties' time to inspect and review evidence begins.

The College will send the evidence made available for each party (and each party's advisor, if any, upon a party's signed information release for their Advisor of Choice) to inspect and review through an electronic format. The

College is not under an obligation to use any specific process or technology to provide the evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

The parties will have ten (10) business days to inspect and review the evidence and submit a written response by email to the Investigator. Advisors are not permitted to submit written responses to the evidence on their own or on behalf of the party they are advising. The Investigator will consider the parties' written responses before completing the investigation report, and the parties' written responses to the Investigator will be included in the final investigation report. The parties may request a reasonable extension as their designated extension request. After the allotted 10 business days and any approved extension have expired, the Investigator will not be required to accept a late submission. The Investigator(s) will consider all timely responses submitted by the parties.

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

The parties and their advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the grievance process. The parties and their advisors agree not to photograph or otherwise copy the evidence.

### **3. Inclusion of Evidence Not Directly Related to the Allegations**

Evidence obtained in the investigation that is determined in the reasoned judgment of the Investigator not to be directly related to the allegations in the Formal Complaint will be included in the appendices to the investigative report.

## **J. Investigative Report**

The Title IX Investigator designated by the Title IX Coordinator will create an investigative report that outlines each of the allegations that potentially constitutes prohibited conduct under this policy, provides the timeline (e.g., procedural steps) of the investigation, and fairly summarizes relevant evidence, participant statements, and responses to questions.

At least 10 business days prior to the date of the scheduled hearing, the Investigator will provide a completed investigative report in electronic format concurrently to both parties to review and provide a written response prior to the hearing. A copy of the completed investigative report will be issued to the Title IX Coordinator and to the hearing panel assigned for the hearing.

The investigative report is not intended to catalog all evidence obtained by the Investigator but only to provide a fair summary of that evidence. Only relevant evidence (including both inculpatory and exculpatory – i.e., tending to prove and disprove the allegations – relevant evidence) will be referenced in the investigative report.

The Investigator may redact irrelevant information from the investigative report when that information is contained in documents or evidence that is/are otherwise relevant.

## **K. Hearing**

### **1. General Rules of Hearings**

The College will not issue a disciplinary sanction arising from an allegation of covered discrimination on the basis of sex or sexual harassment without holding a live hearing unless otherwise resolved through an informal resolution process.

Hearings may be held virtually with remote video conferencing technology or in-person, at the discretion of the College. If a hearing is held in-person, a party may elect to participate remotely. The remote video conferencing technology will enable participants to simultaneously see and hear each other. At its discretion, the College may delay or adjourn a hearing based on technological errors not within the College's or a party's control.

The hearing will be recorded in audio and/or audiovisual format and may be transcribed at the discretion of the College. The recording or transcript, if applicable, will be available for the parties to inspect and review, upon request.

Prior to obtaining access to any evidence, the parties and their advisors must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Title IX Grievance Process. Once signed, this Agreement may not be withdrawn.

## **2. Continuances or Granting Extensions**

The College may determine that multiple sessions or a continuance (i.e., a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, the College will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

## **3. Newly-Discovered Evidence**

Generally, no new evidence or Witnesses may be submitted during the live hearing absent good cause demonstrated by the party offering the new evidence or Witnesses.

If a party offers new evidence or Witnesses that were not reasonably available prior to the live hearing and could affect the outcome of the matter, the party may request that such evidence or Witnesses be considered at the live hearing.

In determining whether there is good cause to consider new evidence or new Witness, the Hearing Chair will consider factors including (1) whether such evidence or Witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2) whether such evidence or Witness testimony could affect the outcome of the matter. If the Hearing Chair determines that good cause exists for offering the new evidence or new Witness, then the parties will be granted a reasonable pause in the hearing to review the new evidence and prepare for questioning of any new Witness.

## **4. Participants in the Live Hearing**

Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

### **a. Complainant and Respondent (The Parties)**

- The Parties cannot waive the right to a live hearing.
- The College will not threaten, coerce, intimidate or discriminate against the party in an attempt to secure the party's participation.
- The College may still proceed with the live hearing in the absence of a party, and may reach a determination of responsibility in their absence. If a party does not attend the live hearing, the Decision-Maker (hearing body) cannot rely on any prior statements made by that party in reaching a Determination Regarding Responsibility, but may reach a Determination Regarding Responsibility based on evidence that does not constitute a "statement" by that party.
  - For example, documents, audio recordings, audiovisual readings, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of discrimination on the basis of sex or sexual harassment under the Formal Complaint are not considered prior statements and could be used as evidence in reaching the Determination Regarding Responsibility.
- If a party does not submit to cross-examination, the Decision-Maker (hearing body) cannot rely on any prior statements made by that party in reaching a Determination Regarding Responsibility, but may reach a Determination Regarding Responsibility based on evidence that does not constitute a "statement" by that party, as described above.

- The Decision-Maker (hearing body) cannot draw an inference about the Determination Regarding Responsibility based on a party's absence from the live hearing or refusal to answer cross-examination or other questions.
- The Parties shall be subject to the College's Rules of Decorum.

**b. The Decision-Maker**

- The hearing body will consist of a panel of three (3) Decision-Makers. The Title IX Coordinator will appoint the panel, and one member will be designated as the Hearing Chair.
- Hearing panel members, including the hearing chair, may be employees of the College or external consultants hired by the College.
- No member of the hearing body will also have served as the Title IX Coordinator, Title IX Investigator, or advisor to any party in the case, nor may any member of the hearing body serve as the appellate officer in the case.
- No member of the hearing body will have a conflict of interest or bias in favor of or against Complainants or Respondents generally, or in favor or against the Parties to the particular case.
- The hearing body will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for Complainants, and any technology to be used at the hearing.
- The Parties will have an opportunity to raise any objections regarding a Decision-Maker's actual or perceived conflicts of interest or bias at the commencement of the live hearing.

**c. Advisor of Choice**

- The Parties have the right to select an Advisor of Choice (Advisor), who may be, but does not have to be, an attorney.
- The Advisor of Choice may accompany the Parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of live questioning (cross-examination and direct examination).
- In addition to selecting an Advisor to conduct live questioning, the Parties may select an Advisor who may accompany the Parties to any meeting or hearing they are permitted to attend, but may not speak for the party.
- The Parties are not permitted to conduct live questioning; it must be conducted by the Advisor. As a result, if a party does not select an Advisor, the College will select an Advisor to serve in this role for the limited purpose of conducting the live questioning at no fee or charge to the party. College-appointed Advisors may be employees of the College or external consultants hired by the College.
- If a party does not attend the live hearing, the party's Advisor may appear and conduct live questioning on their behalf.
- If neither a party nor their Advisor appear at the hearing, the College will provide an Advisor to appear on behalf of the non-appearing party. College-appointed Advisors may be employees of the College or external consultants hired by the College.
- Advisors shall be subject to the College's Rules of Decorum and may be removed upon violation of those Rules.

**d. Witnesses**

- Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free from retaliation.



- If a Witness does not submit to cross-examination, as described below, the Decision-Maker cannot rely on any statements made by that Witness in reaching a Determination Regarding Responsibility, including any statement relayed by the absent Witness to a Witness or party who testifies at the live hearing.
- Witnesses shall be subject to the College's Rules of Decorum.

## **5. Hearing Procedures**

For all live hearings conducted under this Title IX Grievance Process, the procedure will be as follows:

- The Hearing Chair will open and establish rules and expectations for the hearing.
- The Parties will each be given the opportunity to provide opening statements.
- The hearing body will ask questions of the Parties and Witnesses.
- Parties will be given the opportunity for live cross-examination by their Advisors of Choice after the hearing body conducts its initial round of questioning. During the Parties' cross-examination, the Hearing Chair will have the authority to pause cross-examination at any time for the purposes of asking the hearing body's own follow up questions and at any time necessary in order to enforce the established rules of decorum.
- Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Hearing Chair. A Party's waiver of cross-examination does not eliminate the ability of the hearing body to use statements made by the other party or Parties and Witness(es) to whom the waiver applied.
- The Parties will each be given the opportunity to provide closing statements.

## **6. Questioning of Participants at the Hearing**

The hearing board may ask questions during the hearing of any party or Witness and may be the first to ask questions of any party or Witness. Each party's Advisor will conduct live questioning of the other party or Parties and Witnesses. Each party's Advisor will have an opportunity to ask relevant questions and follow-up questions of the other party or Parties and of any Witnesses, including questions that challenge credibility. Each Advisor has the ability to ask questions directly, orally, and in real time at the hearing. The Parties will not be permitted to personally ask questions of the other party or any Witnesses that participate in the hearing. The Advisors may ask questions under the following procedure:

- The Advisor will ask a question of the applicable participant.
- Before the participant answers a question, the hearing chair will rule as to whether the Advisor's question is relevant to the alleged conduct charges. Questions that are duplicative of those already asked, including by the hearing panel, may be deemed irrelevant if they have been asked and answered.
- If the hearing chair rules the Advisor's question as not relevant, then the hearing chair must explain any decision to exclude a question as not relevant. If the hearing chair allows the question as relevant, the participant will answer it.

## **7. Review of Recording**

The recording of the hearing will be available upon request and by appointment at the Title IX Coordinator's office for review by the Parties and their Advisors of Choice upon the issuance of the written Determination Regarding Responsibility. A copy of the recording of the hearing will not be otherwise provided to the Parties or Advisors of Choice.

## **L. Determination Regarding Responsibility**

### **1. Standard of Proof**

The College uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of Formal Complaints covered under this policy. This means that the evidence from the investigation and presented at the hearing demonstrates that a violation of this policy is more likely than not.

## **2. General Considerations for Evaluating Testimony and Evidence**

While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Decision-Maker (hearing body).

Decision-Makers shall not draw inferences regarding a party or Witness' credibility based on the party or Witness' status as a Complainant, Respondent, or Witness, nor shall it base its judgments in stereotypes about how a party or Witness would or should act under the circumstances.

Generally, the hearing panel should decide whether it believes what each Witness had to say and how important that testimony was. In making that decision, the panel may believe or disbelieve any Witness, in whole or in part. The number of Witnesses testifying concerning a particular point does not necessarily matter. In deciding whether the panel believes any Witness, these factors may be considered: (1) Did the Witness impress the panel as one who was telling the truth? (2) Did the Witness have any particular reason not to tell the truth? (3) Did the Witness have a personal interest in the outcome of the case? (4) Did the Witness seem to have a good memory? (5) Did the Witness have the opportunity and ability to accurately observe the things he or she testified about? (6) Did the Witness appear to understand the questions clearly and answer them directly? (7) Did the Witness's testimony differ from other testimony or other evidence?

The Parties may call character Witnesses to testify in a proceeding under this policy. Very low weight will be given to any non-factual character testimony of any Witness.

Where a party or Witness' conduct or statements demonstrate that the party or Witness is engaging in retaliatory conduct, including but not limited to Witness tampering and intimidation, the hearing body may draw an adverse inference as to that party or Witness' credibility.

## **3. Components of the Determination Regarding Responsibility**

The written Determination Regarding Responsibility will be issued simultaneously to all Parties through their institution email account, or other reasonable means as necessary. The Determination will include:

- a. Identification of the allegations potentially constituting covered sexual harassment.
- b. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews with Parties and Witnesses, site visits, methods used to gather other evidence, and hearings held.
- c. Findings of fact supporting the determination.
- d. Conclusions regarding which section of the policy, if any, the Respondent has or has not violated.
- e. For each allegation:
  - i. a statement of, and rationale for, any Determination Regarding Responsibility;
  - ii. a statement of, and rationale for, any disciplinary sanctions the recipient imposes on the Respondent; and
  - iii. a statement of, and rationale for, whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the Complainant; and
- f. The College's procedures and the permitted reasons for the Complainant and Respondent to appeal (described below in "Appeal").

## **4. Sanctions and Remedies**

If the Respondent is found to be in violation of this policy, the hearing body will also determine corrective action. Sanctions are determined after consideration of several factors, including but limited to the following.

- Respondent's prior conduct history (if any) including evidence of a pattern of relevant misconduct.
- Severity of the incident.

- Respondent’s willingness to accept responsibility for their actions.
- College precedent in other cases with similar violation(s).

The following range of sanctions and remedies may be considered by the hearing panel in accordance with this Policy and other applicable policies.

**a. Possible Sanctions and Remedies for Student Respondents**

A Respondent found responsible for a violation of this Policy could receive sanctions ranging from educational requirements, counseling, written warning, community probation, deferred suspension, suspension, retroactive suspension, withhold diploma, dismissal, and/or revocation of degree. Review the [Code of Community Standards](#) (click link to access) for a full listing of possible student sanctions. All sanctions are applicable to individuals, student organizations, academic groups, and athletic teams. More than one sanction or condition may be assigned for any single violation.

**b. Possible Sanctions and Remedies for Employee Respondents**

Faculty and staff who are found to have violated this policy will be subject to disciplinary action based on the nature and severity of the violation(s). A range of possible sanctions includes but is not limited to counseling, training, written warning, probation, suspension, up to and including separation from employment.

**5. Timeline of Determination Regarding Responsibility**

If there are no extenuating circumstances, the written Determination Regarding Responsibility will be issued by the College within ten (10) business days of the completion of the hearing.

**6. Finality**

The Determination Regarding Responsibility becomes final either on the date that the College provides the Parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined in “Appeals” below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

**M. Appeals**

Each party may appeal (1) the dismissal of a Formal Complaint or any included allegations and/or (2) a Determination Regarding Responsibility. To appeal, a party must submit their written appeal within five (5) business days of being notified of the decision, indicating the grounds for the appeal.

The limited grounds for appeal available are as follows.

- Procedural irregularity that affected the outcome of the matter (i.e., a failure to follow the College’s own procedures).
- 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.
- The Title IX Coordinator, Investigator(s), or Decision-Maker(s) had a conflict of interest or bias for or against an individual party, or for or against Complainants or Respondents in general, that affected the outcome of the matter.
- The sanction(s) are extraordinarily disproportionate to the violation(s) of College policy.

If any party files an appeal, the implementation of any sanctions will be delayed pending the decision of the appellate officer. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If a party appeals, the College will as soon as practicable notify the other party in writing of the appeal; however, the time for appeal shall be offered equitably to all Parties and shall not be extended for any party solely because the other party filed an appeal. No party is entitled to receive a copy of another party’s intent to appeal form or related

documents submitted in a request for appeal. Any non-appealing party will have five (5) business days from the notification of an appeal to submit a written statement to the appellate officer, such as a statement in support of the outcome or a personal impact statement. Each party will be notified in writing when an appeal is filed, and the appeal procedures will apply equally for the Parties.

Appeals shall consist of a plain, concise, and complete written statement outlining the grounds for appeal, the supporting facts and relevant information, and the recommended solution. Mere dissatisfaction with the determination is not a valid basis for appeal. Appeals are not a re-hearing of the case. Failure to describe the grounds for appeal and supporting facts and information in full detail will result in the denial of an appeal.

The Intent to Appeal Form and related documentation must be submitted via the [Title IX Intent to Appeal Form](#) (*click link to access*) to the Title IX Coordinator no later than five (5) business days after the date of the determination letter. The deadline to submit an appeal will be stated in the determination letter. Receipt of the written appeal will be acknowledged in writing by the Title IX Coordinator.

Appeals will be decided by a Vice President of the College's choosing (the Appellate Officer). The Appellate Officer will be free of conflict of interest and bias, and will not serve as Investigator, Title IX Coordinator, hearing chair, or hearing panel member in the same matter. The Title IX Coordinator will forward the investigation report, hearing audio or audiovisual recording, other documents or records pertaining to the hearing, and appeals statements received to the appellate officer for review.

The Appellate Officer will first determine if sufficient grounds for appeal exist. If not, the Appellate Officer will deny the appeal. If so, the Appellate Officer may do the following.

- Affirm the hearing panel's determination regarding Respondent's responsibility and affirm the disciplinary sanctions and remedies, if applicable.
- Affirm the hearing panel's determination regarding Respondent's responsibility and amend the disciplinary sanctions and remedies, if applicable.
- Remand the process back to the hearing stage for the hearing body to remedy any procedural irregularity or consider any new evidence.

The Appellate Officer will release a written decision within twenty-one (21) business days from the date of appeal. Outcome of appeals will be provided in writing simultaneously to each party and the Title IX Coordinator and will include the rationale for the decision. The decision of the Appellate Officer is final.

## **VII. Retaliation, Amnesty, False Reports, and Interference with the Grievance Process**

### **A. Retaliation**

The College will keep the identity of any individual who has made a report or complaint of discrimination on the basis of sex or sexual harassment confidential, including the identity of any individual who has made a report or filed a Formal Complaint under this Policy, any Complainant, any individual who has been reported to be the perpetrator of discrimination on the basis of sex or sexual harassment, any Respondent, and any Witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), or as required by law, or to carry out the purposes of Title IX and its implementing regulations, including the conduct of any investigation, hearing, or proceeding under this Policy.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual 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 this Policy.

Any intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve discrimination on the basis of sex or sexual harassment, but that arise from the same facts or circumstances as a report or Formal Complaint of discrimination on the basis of sex or sexual harassment (see the amnesty provision below).

If any participant in a grievance process believes they have been subject to retaliation as defined in this Policy, they should immediately report the alleged retaliatory conduct to the Title IX Coordinator. Any individual who engages in retaliation will be subject to prompt and appropriate disciplinary action.

### **B. Amnesty**

The College may, in its discretion, grant amnesty from student and/or employee disciplinary action to a person who acts in good faith in reporting an incident, filing a Formal Complaint, or participating in a grievance process (e.g., investigation, hearing, appeal). This amnesty does not extend to the person's own violations of this policy. Violations of the College's alcohol and illegal substances policies may be exempt from disciplinary action in situations where discrimination on the basis of sex or sexual harassment also allegedly occurs. However, the College may initiate an educational discussion about the use of alcohol or drugs and their impact.

### **C. False Reports**

Submitting a good faith complaint, concern, or report of discrimination on the basis of sex or sexual harassment will not affect a Complainant's employment, grades, academic standing, or work assignments. However, any person, who in bad faith, knowingly files a false complaint under this Policy or knowingly provides materially false information, is subject to disciplinary action. Unless demonstrated otherwise, Complainants are presumed to have reported in good faith. False reports are different from unverifiable reports. A determination that a Respondent is not responsible for allegations of discrimination on the basis of sex or sexual harassment does not imply that a report, Formal Complaint, or information provided was false. Similarly, a determination that a Respondent is responsible for a policy violation does not imply that a Respondent's statements disclaiming responsibility were false.

### **D. Interference with the Grievance Process**

Any person who interferes with the grievance process is subject to disciplinary action. Interference with a grievance process may include, but is not limited to the following.

- Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information.
- Removing, destroying, or altering documentation relevant to the grievance process.
- Knowingly providing false or misleading information to the Title IX Coordinator, Investigator, or hearing panel.
- Encouraging others to engage in the aforementioned prohibited conduct.

## **VIII. Timeframes**

This policy includes deadlines and timeframes. The College, through the Title IX Coordinator, may, in its discretion, modify, extend, change, or enlarge any deadline or timeframe in the interest of fairness or good cause.

## **IX. Annual Review**

The Title IX Grievance policy is maintained by the [Office of Title IX](#) (*click link to access*). The Title IX Coordinator reviews this policy on an annual basis and presents any proposed changes to a small advisory group. The annual review captures evolving legal requirements, evaluates the support and resources available to the Parties, and assesses the effectiveness of the grievance process (including the fairness of the process, the time needed to complete the process, the sanctions and remedies imposed, and the appeal process).

## **X. Relevant Federal and State Statutes** *(click links to access)*

- [Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681–1688 and its implementing regulations, 34 C.F.R. Part 106](#)
- [Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e–2000e-17 and its implementing regulations 29 C.F.R. §1604 11](#)
- [Clery Act, 20 U.S.C §1092\(f\) and its implementing regulations 34 C.F.R. Part 668](#)
- [FERPA Regulations, 34 C.F.R. Part 99](#)
- [Florida Statute Title XLVI Crimes, Chapter 794 Sexual Battery](#)
- [Florida Statute Title XLIII Domestic Relations, Chapter 741 Marriage; Domestic Violence](#)
- [Florida Statute Title XLVI Crimes, Chapter 784 Assault; Battery; Culpable Negligence – Dating Violence](#)
- [Florida Statute Title XLVI Crimes, Chapter 784 Assault; Battery; Culpable Negligence – Stalking](#)

## **XI. Related College Policies or Applicable Publications** *(click links to access)*

- [HR 7575 \*Amorous Relationships with Students\*](#)
- [HR 7576 \*Amorous Relationships Between Supervisors and Subordinates\*](#)
- [HR 7680 \*Campus Violence Prevention Policy\*](#)
- [HR 7690 \*Child Protection\*](#)
- [Code of Community Standards & Responsibility](#)
- [HR 7535 \*Disability Policy Under the Rehabilitation Act and the Americans with Disabilities Act\*](#)
- [HR 7410 \*Disciplinary Procedure for Staff\*](#)
- [HR 7420 \*Discrimination Grievance Procedure for Faculty and Staff\*](#)
- [HR 7440 \*Discrimination Grievance Procedure: Students Reporting Discrimination by Faculty or Staff\*](#)
- [HR 7175 \*Domestic Violence Leave Policy\*](#)
- [Employee Assistance Program Webpage](#)
- [FERPA Policy Webpage](#)
- [Staff Grievance and Dispute Resolution Procedures Webpage](#)
- [HR 7001 \*Guidelines for Supporting and Addressing Needs of Transgender and Gender Non-conforming Employees\*](#)
- [HR 7700 \*Non-discrimination Policy Statement\*](#)
- [HR 7600 \*Prohibition of Firearms\*](#)
- [HR 7450 \*Sexual Harassment\*](#)
- [KI 1010 \*Undue Influence Policy\*](#)
- [College Policy 085.00 \*Violation of Local, State or Federal Laws\*](#)

## **XII. Appendices and Resources** *(click links to access)*

[Appendix A: Resources and Assistance for Community Members](#)

## Appendix A: Resources and Assistance for Community Members

### **A. Immediate Assistance**

Your safety is the top priority. If you are in danger, immediately call 911. Once you are out of physical danger and in a safe place, consider reaching out to someone you know and trust, seeking medical attention, contacting a victim advocate, contacting the police, and/or seeking counseling. Not every individual will be prepared to make a report to the College or local law enforcement and that is okay. The important thing is to get help when you need it.

#### **1. Immediate Healthcare and Preservation of Evidence**

If you experience sexual misconduct, you are strongly encouraged to seek counseling and medical care even if you do not plan to request a forensic exam or report the incident to the police. You may be prescribed medications to prevent sexually transmitted infections and/or pregnancy even if the police are not contacted or if a forensic exam is not performed.

##### **a. Sexual Assault Treatment Center**

If you experience sexual violence, you are encouraged to seek immediate medical care. Additionally, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Your first instinct may be to take a shower and clean yourself. It is critical that you do not shower or bathe, brush your teeth, change your clothing, or wash your hands. If possible, do not go to the bathroom, eat, drink, or take medication unless it is necessary for your health. Your body and clothing may contain critical evidence if you choose to have a forensic examination.

The [Victim Service Center of Central Florida](#) provides immediate support and advocacy to both reporting and non-reporting victims of sexual assault. Services can include forensic evidence collection to preserve physical evidence by a Sexual Assault Nurse Examiner (SANE) that occurs in a private facility that offers a calming home-like environment. If possible, this should be done immediately. If an immediate forensic exam is not possible, individuals who have experienced a sexual assault may have a forensic exam within five days (120 hours) of the incident. A victim advocate is available to accompany the survivor during the exam, and all information provided to the advocate is confidential. Services can be received regardless of whether a survivor reports the crime to law enforcement. There is no cost associated with having a forensic exam done or with any follow up services provided by Victim Service Center of Central Florida. You will not be asked to provide any insurance information at any point. To undergo a forensic exam, contact the Victim Service Center 24/7 helpline at 407-500-4325 to be directed to the Sexual Assault Treatment Center. For more information about forensic exams, see <https://www.victimservicecenter.org/our-services/sexual-assault-services/forensic-exam-locations/>.

##### **b. Emergency Room/Local Hospital/Private Physician/Planned Parenthood**

The closest hospital and emergency room to campus is [AdventHealth Winter Park](#) (407-646-7000). Please note that area hospitals are required by Florida law and/or policy to contact local law enforcement, but individuals will not be required to report the incident. The emergency room may have law enforcement transfer you to the local rape crisis center. Emergency rooms see patients in order of the severity of their symptoms, and you may not receive the fastest care from an emergency room. You should not need medical insurance to receive medical care.

Your private physician or a specialist (i.e., gynecologist, urologist) can offer you services and support, but you may need to make an appointment and there may be a waiting period. If you need medical attention right away, consider accessing one of the other options.

[Planned Parenthood East Orlando Health Center](#) (407-246-1788) provides high-quality, affordable health care and sex education. With or without insurance, you can always come to them for your health care. They provide men's and women's healthcare; STD/STI testing, treatment, and vaccines; HIV services; LGBTQ services; birth control; pregnancy testing and services; emergency contraception/morning-after pill; and abortion services.

### **c. Rollins Wellness Center**

Students may seek medical attention, Plan B, STD/STI testing, or answers to their questions and concerns by visiting the [Wellness Center](#) during normal business hours. Confidentiality laws protect the conversations you have with medical staff in the course of care or treatment.

## **2. Police Assistance**

If you experience or witness sexual misconduct, the College encourages you to file a police report. The decision to report to the police is entirely up to you. The police may share your report with the Rollins College Office of Campus Safety, who in turn would share it with the Title IX Coordinator.

A police department's geographic jurisdiction depends on where the incident occurred. If the incident occurred on campus, you may file a report with the [Winter Park Police Department](#) by calling 407-644-1313 (non-emergency) or 911 (emergency) or in person at 500 North Virginia Avenue, Winter Park, Florida 32789, even if time has passed since the incident occurred. The police can also assist with applying for an injunction for protection or restraining order. The Rollins [Office of Campus Safety](#) is also available 24/7/365 days a year at 407-646-2999 and can assist you in contacting the police; however, Rollins campus safety officers are not police officers.

Reporting an incident to law enforcement does not mean the case will automatically go to criminal trial or go through a grievance process. Notifying the Winter Park Police Department will generally result in the Complainant and, in some cases the Respondent, being contacted by a police officer. The police department determines if a criminal investigation will occur and if the case will be referred for prosecution. A case not referred for criminal prosecution will still receive a College response.

## **3. Counseling and Other Services**

If you experience sexual misconduct, you are strongly encouraged to seek victim advocacy support, counseling, and/or psychological care. You may receive psychological support by the Wellness Center or Cornell Counseling Clinic (students), Employee Assistance Program (employees), or a care provider of your choice.

### **a. Rollins Wellness Center**

Students have the opportunity for one-on-one and group counseling on campus in the [Wellness Center](#). Confidentiality laws protect the conversations individuals have with a counselor. Services are provided free of charge. Counselors are available to meet with students by appointment or almost immediately in crisis situations. In a mental health emergency, call 911 or the Wellness Center After-hours Crisis Phone at 833-848-1761. The Wellness Center can be reached at 407-628-6340 or [wellnesscenter@rollins.edu](mailto:wellnesscenter@rollins.edu).

### **b. Cornell Counseling Clinic**

Holt and Crummer students have the opportunity for free, private, and confidential individual counseling services at the [Cornell Counseling Clinic](#). The Cornell Counseling Clinic is operated under the supervision of faculty from the Graduate Studies in Counseling Program. The faculty supervisors are Licensed Mental Health Counselors and/or Licensed Psychologists. Counseling services are provided by trained graduate counseling interns. The Cornell Counseling Clinic offers evening hours. In a mental health emergency, call 911 or the Wellness Center After-hours Crisis Phone at 833-848-1761. The Cornell Counseling Clinic can be reached at 407-646-2134 or [counseling@rollins.edu](mailto:counseling@rollins.edu).

### **c. Employee Assistance Program**

Employees have the opportunity to seek counseling through the [Employee Assistance Program](#). There is no cost and no enrollment required. Telephonic consultation is available 24/7 with trained Master's level clinicians who provide referrals to a licensed provider within the community. Call 877-398-5816 or visit [resourcesforliving.com](http://resourcesforliving.com).  
Username: ICUBA | Password: 8773985816



**d. Victim Service Center of Central Florida**

[Victim Service Center](#) operates a confidential 24/7 crisis helpline (407-500-4325) for anyone seeking immediate telephone crisis intervention services or information on sexual assault, violent crime, and traumatic circumstances. The Victim Service Center provides victim advocacy, therapy, and other support services.

**e. Harbor House of Central Florida**

[Harbor House](#) operates a confidential 24/7 crisis hotline (407-886-2856) for anyone seeking immediate telephone crisis intervention services or information on domestic abuse, emergency shelter, and injunctions for protection. Harbor House provides victim advocacy, therapy, emergency shelter, and other support services.

**f. Zebra Coalition**

[Zebra Coalition](#) is a network of organizations, which provide services to lesbian, gay, bisexual, transgender and all youth (LGBTQ+) ages 13-24. The Coalition assists young people facing homelessness, bullying, isolation from their families, and physical, sexual, and drug abuse with individualized programs to guide them to recovery and stability. The Coalition provides counseling, housing, and other support services.

**g. National Confidential Resources**

- **National Sexual Assault Hotline** (call or chat) | 800-656-4673 | [rainn.org](http://rainn.org)
- **National Domestic Violence Hotline** (call or chat) | 800-799-7233 | [thehotline.org](http://thehotline.org)
- **Dating Abuse Helpline** | 866-331-9474 | [loveisrespect.org](http://loveisrespect.org)
- **Stalking Resource Center** | 855-484-2846 | [victimsofcrime.org](http://victimsofcrime.org)
- **Human Trafficking Resource Center** | 888-373-7888 | [traffickingresourcecenter.org](http://traffickingresourcecenter.org)
- **LGBT Hotline** | 888-843-4564 | [glbtonationalhelpcenter.org](http://glbtonationalhelpcenter.org)
- **Helpline for Male Survivors** | [1in6.org/helpline](http://1in6.org/helpline)
- **Suicide Prevention Lifeline** | 800-273-8255 | [suicidepreventionlifeline.org](http://suicidepreventionlifeline.org)