

**IOWA VALLEY COMMUNITY COLLEGE DISTRICT
TITLE IX POLICY AND PROCEDURES**

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I. THE POLICY

The Iowa Valley Community College District supports the rights of all individuals to live and study in an environment free from sexual coercion and violence. In accordance with Title IX of the Education Amendments Act of 1972, the District prohibits sex discrimination, including sexual harassment, as defined in Section II. The District will utilize this Procedures Manual to respond to all claims of sex discrimination or sexual harassment. If the District determines that a report or complaint does not constitute a violation of Title IX, it may still proceed to investigate or respond to that report or complaint under any other applicable District policy or procedure.

Sexual misconduct is a crime punishable by both civil and criminal legal action and a serious violation of District policies, procedures, and rules. It will not be tolerated within our community. Employees and students of the District are charged with the responsibility of being familiar with and abiding by the standards of conduct set forth herein. The District will provide programs to prevent domestic violence, dating violence, sexual assault, stalking, and sexual harassment, including primary prevention and awareness education programs for all incoming students, as well as ongoing prevention and awareness campaigns for students and employees, which shall contain the information included in this guideline and related Board policy and as required by law. In addition to direct areas of threat, the District will engage in training opportunities for bystander intervention which focuses on both prevention messages and advocates for the facilitation of appropriate bystander behavior. This is done by a) increasing awareness of gender violence, b) increasing recognition that it is a problem, c) increasing ownership/responsibility of the issue, d) developing skills to intervene, and e) increasing recognition of such intervention.

The requirements of this policy do not discriminate based on sexual orientation or preference of individuals engaging in sexual activity.

All District employees are considered mandatory reporters of sexual harassment with exemptions made for mental health professionals and clergy as the law allows. When an employee becomes aware of an alleged act of sexual assault, sexual harassment, domestic/dating violence or stalking, the employee must promptly contact their District's designated Title IX Coordinator. The employee will complete a SaVE Act Reporting form. A response team is also available to provide guidance.

II. DESIGNATION OF TITLE IX COORDINATORS

The following employees are designated as the District's Title IX Coordinators. These individuals are available to advise any individual on the District's Title IX Policy and Procedures, and on their rights under the same. Reports and formal complaints of sexual harassment may be made to the Title IX Coordinator in person or by email, telephone, or US Mail.

Marshalltown Title IX Coordinator:
Nate Chua, Dean of Students
Address: 3700 South Center Street, Marshalltown, IA 50158
MCC Room 115f

Telephone: 641-844-5743
Email: Nate.Chua@iavalley.edu

Ellsworth Title IX Coordinator:
Michael Emerson, Dean of Student Affairs
Address: 1100 College Avenue, Iowa Falls, IA 50126
Gentle Student Center 223
Telephone: 641-648-8519
Email: Michael.Emerson@iavalley.edu

BCS Title IX Coordinator
Ashley Patlan, Pathway and Program Coordinator
Address: 3702 S. Center Street, Marshalltown, IA 50158
MCC Room 519
Telephone: 641-844-5629
Email: Ashley.Patlan@iavalley.edu

IVCCD Human Resources Title IX Coordinator:
Sara Aguilera, Associate Director of Human Resources
Address: 3702 South Center Street, Marshalltown, IA 50158
District Office
Telephone: 641-844-5525
Email: Sara.Aguilera@iavalley.edu

III. DEFINITIONS

- A. **Sexual harassment** means unwelcome behavior (verbal, written, physical) that is directed at someone because of that person's sex or gender, and that meets any of the following definitions:
1. **“Quid Pro Quo” Harassment.** A District employee, agent, or other individual under the District’s control or authority explicitly or implicitly conditions an educational decision or benefit on submission to sexual conduct (e.g., sexual favors for a better grade, more playing time, pay increase, better work assignment; threatening (explicitly or implicitly) negative consequences if the student or employee rejects sexual advances). **OR**
 2. **Hostile Educational/Work Environment.** Unwelcome conduct that creates a hostile, intimidating or demeaning environment that is sufficiently severe, pervasive, and offensive that it effectively denies a person equal access to participation in a student’s educational activities and benefits or an employee’s employment opportunities. Examples can include persistent and unwelcome efforts to develop a sexual relationship; bullying/cyber-bullying of a sexual nature or for a sexual purpose; unwelcome commentary about an individual's body or sexual activities; unwanted sexual attention; repeated and unwelcome sexually-oriented teasing, joking

or flirting; verbal abuse of a sexual nature. Behavior could be verbal, non-verbal (e.g., gestures, touching), written or electronic; **OR**

3. **Sexual assault.** An offense that meets the definition any one of the following offenses:
 - 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 consent of the victim.
 - Fondling: the touching of the private body parts of another person for the purpose of sexual gratification without consent of the victim,
 - Incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
 - Statutory rape: sexual intercourse with a person who is under the statutory age of consent; **OR**
4. **Stalking:**
 - Purposefully engaging in a course of conduct directed at a specific person ("target") that would cause a reasonable person to fear bodily injury to, or the death of, the target or a member of the target's immediate family;
 - when the person ("stalker") knows or should know that the target will be placed in reasonable fear of bodily injury to, or the death of, the target or a member of the target's immediate family by the course of conduct; and
 - the stalker's course of conduct induces fear in the target of bodily injury to, or the death of, the target or a member of the target's immediate family; **OR**
5. **Dating Violence:** violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of:
 - The length of the relationship.
 - The type of relationship.
 - The frequency of interaction between the persons involved in the relationship;**OR**
6. **Domestic Violence:** any felony or misdemeanor crime 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 cohabiting with, or has cohabited with, the victim as a spouse or intimate partner;
 - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Iowa; 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 the State of Iowa.

Determination as to whether the alleged conduct constitutes sexual harassment should take into consideration the totality of circumstances, including the context in which the alleged incidents occurred.

- B. **Consent** is knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. In order to be effective, consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. For consent to be valid, there must be clear expression in words or actions that the other individual consented to that specific sexual conduct. When someone makes clear that he or she does not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Silence or the absence of resistance alone is not consent. Consent may be withdrawn at any time.
- C. **Complainant** means any person who alleges that they have been subjected to sexual harassment as defined by this Policy. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the District's programs or activities.
- D. **Respondent** means any person who has been reported to be the perpetrator of conduct that could constitute sexual harassment under this Policy, and over whom the District is able to exercise substantial control.
- E. **Investigators** mean the individuals designated by the District's Title IX Coordinator to conduct investigations of alleged sexual misconduct. Under no circumstances will an Investigator serve as a Decision-Maker or Appeal Decision-Maker for the same case.
- F. **Hearing Panel** means the three-member team who act as decision-makers in the District's live hearing to reach a determination of responsibility. The Title IX Coordinator or Title IX Investigator will not serve on the Hearing Panel.
- G. **Appeal Decision-Maker** means the administrator who reviews the investigation and initial determination made by the Decision-Maker in the event of an appeal under this policy. The Appeal Decision-Maker shall not be the Title IX Coordinator, Title IX Investigator, or initial Decision-Maker.

IV. POLICY SCOPE

This Policy applies to all persons participating in the District's educational program or activities of, including students and employees of the District, and in particular individuals who:

- Are victims of any form of sexual harassment by any other person (student, employee, or others in the District community).
- Are accused of engaging in behavior prohibited by this Policy.

The District has jurisdiction over locations, events or circumstances over which it substantially controls the Respondent and the context in which the harassment occurs. The District's jurisdiction is limited to conduct against a person that occurs in the United States.

Any person may file a complaint alleging sexual misconduct against a student or employee of the District. However, with respect to any complaint that is 1) by a person who is not a member of the District community, and/or 2) relating to conduct occurring outside the District's program or activity, the District reserves the right to determine, in its sole discretion, whether the conduct described in the complaint bears a sufficient nexus to the educational program or employment relationship of a College student or employee or constitutes a sufficient risk to the College community to proceed under this Policy.

V. CONFIDENTIALITY

The District is committed to creating an environment that encourages individuals to come forward if they have experienced any form of sexual misconduct. However, the District cannot promise absolute confidentiality to any party. The District will keep confidential the identity of any individual who has made a report or complaint of sex discrimination or sexual harassment, or has been identified as the perpetrator or respondent to any such report or complaint, or is a witness to any complaint or investigation, **except** as required to carry out the purposes of this Policy (including the conduct of any complaint resolution process), applicable law, or as permitted by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g.

VI. REPORTING SEXUAL MISCONDUCT, INCLUDING SEXUAL ASSAULT AND SEXUAL HARASSMENT

A. Reporting

In an emergency, call 9-1-1. You can also contact local law enforcement at 641-754-5725 (Marshalltown) or 641-648-6464 (Iowa Falls).

Any individual may make a report of sexual harassment to the District by contacting the appropriate Title IX Coordinator for their College:

Marshalltown Title IX Coordinator:

Nate Chua, Dean of Students

Address: 3700 South Center Street, Marshalltown, IA 50158

MCC Room 115f

Telephone: 641-844-5743

Email: Nate.Chua@iavalley.edu

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Michael Emerson, Dean of Student Affairs

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IVCCD Human Resources Title IX Coordinator:

Sara Aguilera, Associate Director of Human Resources

Address: 3702 South Center Street, Marshalltown, IA 50158

District Office

Telephone: 641-844-5525

Email: Sara.Aguilera@iavalley.edu

Upon receipt of a report of sexual harassment, whether or not made by the target of the harassment (Complainant), the Title IX Coordinator (or designee) will meet with the Complainant to explain the availability of supportive measures, with or without filing a formal complaint and explain the District's grievance process.

The Complainant has the option to notify law enforcement authorities including on-campus and local police, be assisted by campus authorities in notifying law enforcement authorities (if the victim so chooses) and to decline to notify such authorities. The procedures available under this Title IX Policy are available to Complainant whether or not Complainant reports the alleged conduct to law enforcement.

It is important to preserve evidence as may be necessary to prove sexual harassment, or to obtain a court order. It is imperative for sexual assault victims to have an examination at the local emergency facility as quickly as possible, and to not shower prior to having a forensic examination. The longer an individual waits to pursue this option, the more difficult it becomes to collect forensic evidence. The Title IX Coordinator, a sexual assault advocate, or local police can assist a victim in obtaining an exam. Crime Victim Compensation may be available to victims of sexual assault; for more information, call 800-373-5004.

B. Amnesty for Student Complainants and Participants in Investigations

A student who files a report under this policy, as well as student witnesses and any students present immediately before, during or in the aftermath of an incident of alleged sexual harassment may not be referred for disciplinary action for unrelated violations (e.g. alcohol, parties, drugs, etc.).

C. Retaliation Prohibited

Retaliation against a person who reports sexual misconduct, assists someone with a report of sexual misconduct, or participates in any manner in an investigation or resolution of a sexual misconduct report is strictly prohibited. Retaliation includes threats, coercion, discrimination, intimidation, reprisals, and/or adverse actions related to employment or education. Any individual who believed they have been retaliated against in violation of this Policy should immediately report the alleged retaliation to the [Title IX Coordinator].

This Policy's antiretaliation protections do not apply to any individual who makes a materially false statement in bad faith in the course of any complaint, investigation, hearing, or other proceeding under this Policy. However, a determination that an individual made a materially false statement in bad faith must be supported by some evidence other than the determination of whether the Respondent violated this Policy alone.

D. Time Frames for Reporting and Response

The District strongly encourages prompt reporting of complaints and information. While there is no time limit in invoking this Policy in responding to complaints of alleged sexual harassment, a complaint should be submitted as soon as possible after the event takes place in order to maximize the District's ability to respond promptly and equitably.

The District may not be able to fully investigate a formal complaint against an individual who is no longer affiliated with the District. Under those circumstances, the District will still consider

Commented [MVH1]: The Title IX Coordinator or other appropriate administrator – include contact info if other than the TIX Coordinator

Commented [CT2R1]: Add CE and HR

Commented [CT3R1]: Just added Title IX Coordinator

whether it can offer supportive measures to the Complainant or proceed under another applicable law, policy, procedure, handbook provision, or rule.

In all cases, the District will conduct a prompt and equitable investigation of allegations of sexual misconduct. Generally, the District will attempt to complete the investigation process and issue a written determination of responsibility within 60 days (exclusive of any appeal). However, the time frames set forth in these procedures are meant to provide guidance, and the District may, as appropriate, alter or extend time frames for good cause, with notice to the parties. The time it takes to complete the resolution of a sexual misconduct complaint may vary based on the complexity of the investigation and the severity and extent of the alleged conduct, as well as on whether there is a parallel criminal investigation, or if school breaks occur during the process.

VII. PROCESS FOR RESPONDING TO REPORTS OF SEXUAL HARASSMENT

A. Initial Meeting with the Complainant

Upon receipt of any report of sexual harassment occurring in the District's educational program or activity, the Title IX Coordinator or designee will first schedule a meeting with the Complainant in order to provide the Complainant a general understanding of this Policy and to identify forms of supportive measures available to the Complainant with or without the filing of a formal complaint, and to explain the process for filing a formal complaint. The intake meeting may also involve a discussion of any specific supportive measures that may be appropriate.

At the initial intake meeting with the Complainant, the Title IX Coordinator or designee will seek to determine how the Complainant wishes to proceed. The Complainant may opt for: (1) informal resolution; (2) formal resolution; or (3) not proceeding. Supportive measures may still be offered by the District regardless of whether the Complainant chooses to pursue any available resolution process.

If the Complainant wishes to proceed with either informal or formal resolution, a formal written complaint must be filed and signed by the Complainant or signed by the Title IX coordinator alleging harassment against a respondent. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not the complainant or otherwise a party to a complaint proceeding under this Policy. A formal complaint may be provided to the Title IX Coordinator in person, by email, or by US Mail.

B. Supportive Measures

The District may implement immediate supportive measures to protect the safety of the District community, to enable students or employees with complaints and witnesses to continue their studies or work, and to ensure the integrity of an investigation. Interim supportive measures will be individualized, provided without fee or charge to the student(s) or employee(s), and are non-disciplinary in nature.

The District may temporarily remove an accused student or place an accused employee on administrative leave on an emergency basis, but only if the District has performed an individualized safety and risk analysis that finds an immediate threat to the physical health or safety of any individual, or where the District is required to do so by any federal or state law, regulation, or rule. Any student or employee so suspended or placed on leave will be provided with notice and an opportunity to challenge this action immediately following the removal.

After reporting the alleged sexual harassment to the Title IX Coordinator or campus security, the following non-punitive, non-disciplinary supportive measures may be provided to any party to the complaint:

1. Change of an on-campus student's housing to a different on-campus location.
2. Transferring class sections when available.
3. Assistance in exploring alternative housing, incompletes, leave, or withdrawal.
4. Assistance from the Financial Aid Administrator in understanding financial obligations and options, including issues related to loan repayments terms and conditions.
5. Alternative work arrangements, schedules, or locations.
6. No contact directives. A mutual no-contact directive may be issued to the parties, regardless of whether Complainant chooses to pursue a criminal complaint or no contact order through law enforcement or the court system.

On-campus and off-campus resources are available to students at any time. MCC offers free mental health counseling through the Student Assistance Program. Contact Nancy Adams at 641-844-5753 or Nancy.Adams@iavalley.edu. Employee Assistance Program at 866-451-5465

Hardin County counseling services include:

- Crisis Intervention Services: 855-424-9133
- Hansen Family Hospital: 920 S. Oak St., Iowa Falls, 641-648-4631.
- Iowa Sexual Abuse Hotline: 800-228-1625 or 800-284-7821.
- Crime Victims' Compensation Program: 515-281-5044.
- Achieve Mental Health: 814 Railroad St., Iowa Falls, 641-648-4010.
- Behavior Health Services: 322 ½ College Ave., Iowa Falls, 641-648-6491.

Marshall County counseling services include:

- Center Associates (formerly Mental Health Center of Mid-Iowa): 9 N. 4th Ave., 641-752-1585.
- Child, Adolescent and Parent Support: 104 S. 1st St., 641-752-1730.
- Crime Victims' Compensation Program: 515-281-5044.
- ACCESS Sexual Abuse Hotline 1-800-203-3488

Commented [MVH4]: What supportive measures may be offered to employees in addition to 5 and 6 below? Do you have an Employee Assistance Program or otherwise make counseling available to employees as well as students?

Commented [CT5R4]: HR

Commented [CN6]: Add Employee Assistance Program?

Commented [MH7]: Is there counseling available at Ellsworth CC?

Commented [CT8R7]: Tracy is checking on

Commented [CT9R7]: not at this time

- ACCESS Domestic Abuse Services 1-855-983-4641
- Shelter Services 1-888-696-2980
- Iowa Victim Services Call Center: 1-800-770-1650.
- Unity Point Health-Marshalltown: 3 South 4th Ave., 641-754-5151.
- Youth & Family Shelter Services: 11 East State St., 641-752-2300.

Poweshiek County resources (for Marshalltown and Grinnell students)

- Capstone Behavioral Healthcare: 641-528-6065, 200 4th Avenue West, Grinnell.
- Crisis Intervention Services, Crisis Line: 1-800-270-1620 or 641-673-5499, 500 High Avenue West, Oskaloosa, IA.
- UnityPoint Grinnell Regional Medical Center: 641-236-2380 (Emergency Room), 200 4th Avenue West, Grinnell

The District's **Response Team** will make available a member to serve as an informal support person for both the Complainant and the Respondent to help navigate the District's Title IX process. An individual who desires that details of the incident be kept confidential may speak with individuals who meet the professional counselor/pastoral exemption under the Clery Act (mental health counselors) and who thus may not be obligated to report crimes they have learned about. Additionally, individuals may speak to off-campus rape crisis resources that may maintain confidentiality and/or clergy or chaplains off-campus. The District will protect the confidentiality of alleged victims and will not include identifying information about them in publicly available reports, to the extent permitted by law. Written notification will also be provided to individuals about existing counseling, health, mental health, victim advocacy, legal assistance and other support services for alleged victims, both on-campus and in the community.

Commented [CN10]: Is this terminology correct?

Commented [CT11R10]: Will keep this terminology for a year and revisit.

C. **Informal Resolution**

Upon filing of a formal complaint, a Complainant who does not wish to pursue formal resolution may request a less formal proceeding, known as "Informal Resolution." Informal resolution is available to the parties any time prior to a determination of responsibility made by the Hearing Panel.

Commented [MVH12]: This section is optional. If you do not wish to offer informal resolution, just delete all of section C.

You have very broad discretion to develop an informal resolution option. I have put in a fairly basic option, but you can do other things like mediation, arbitration, restorative justice, etc.

Commented [CT13R12]: We will offer informal resolution

1. **Election of Informal Resolution**

The Title IX Coordinator will assess the severity of the alleged harassment and the potential risk of a hostile environment for others in the College community to determine whether informal resolution may be appropriate. Informal Resolution will **not** be used to resolve allegations involving an employee sexually harassing a student.

The District will not require the parties to participate in the Informal Resolution process as a condition of enrollment, employment, or of any other right conferred by the District.

The Title IX Coordinator will provide the parties with a written notice setting forth the allegations, the requirements of the informal resolution process set forth in this Policy, the right of any party to withdraw from the informal process and proceed with the formal grievance

process at any time prior to agreeing to a resolution; and any consequences resulting from the participation in the informal process, including the records that will be maintained or could be shared by the District. Both parties must voluntarily consent in writing to participation in the informal resolution process.

2. Information Gathering and Resolution Process

Upon receipt of written consent from the parties to participate in informal resolution, the Title IX Coordinator will consult separately with the Complainant and Respondent and gather additional relevant information as necessary. The Title IX Coordinator also may put in place any appropriate supportive measures to protect the educational and/or work environments of the parties. The Title IX Coordinator will work with parties to determine a mutually acceptable resolution to the complaint. This resolution will be reduced to writing and must be signed by the Complainant and the Respondent. Once both parties have voluntarily signed the written resolution, the written resolution becomes final and neither party can initiate the formal grievance process to resolve the allegations in the formal complaint. The written resolution is not subject to appeal.

3. Election of Formal Resolution

Either party may, at any time prior to signing an informal resolution agreement, elect to end the informal resolution process and initiate formal resolution instead. In such cases, statements or disclosures made by the parties in the course of the informal resolution may not be considered in the subsequent formal resolution. In the event that either party elects to move forward with formal resolution, a new investigator will be designated who was not involved in the informal resolution process.

4. Privacy of Informal Resolution

In order to promote honest, direct, communication, information disclosed during informal resolution will remain confidential, except where disclosure may be required by law or authorized in connection with duties on behalf of the District.

D. Formal Resolution

Upon submission of a formal complaint, Complainant may elect to pursue a formal resolution, which is described more specifically in this section.

1. Advisors or Support Persons

Complainants and Respondents have equivalent rights to be accompanied at any stage of the process by an advisor or support person of their choice, at their own expense, who may be an attorney. Advisors/Support Persons may not answer questions on behalf of any party or otherwise participate in any interview or meeting, other than to confer with the party they are supporting/representing and to conduct questioning during a Hearing held pursuant to this Policy.

2. Consolidation of Complaints

The District may consolidate formal complaints of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, where the allegations arise out of the same facts or circumstances.

3. Required Notices

Notice of Investigation. If a Complainant elects to pursue a formal complaint, the Title IX Coordinator or designee will provide a written Notice of Investigation simultaneously to both parties notifying the parties of:

- the identities of the parties involved in the incident;
- the conduct alleged;
- the date and location of the incident;
- Respondent's entitlement to a presumption of innocence;
- The parties' rights to have an advisor of their choice at the party's expense, who may be an attorney; and
- The parties' rights to review and comment on investigative evidence.

The written notice of investigation shall notify the parties that making false statements or knowingly submitting false information during the grievance process is prohibited by the District and may constitute an independent basis for disciplinary sanctions against any student or employee, up to and including suspension or expulsion of a student or termination of an employee's employment.

The notice of investigation shall be provided prior to the initial interview of either party by the Investigator.

If, during the course of investigation, the District determines that additional allegations will be investigated as part of the pending complaint, the Title IX Coordinator or designee will provide written notice of the additional allegations to any identified Complainant(s) or Respondent(s).

Notice of Interviews, Hearings, or Other Meetings. The Title IX Coordinator shall provide to any party a written notice of the date, time, location, participants, and purpose of any interview, hearing, or meeting with sufficient time for the party to prepare.

4. Dismissal

The District shall dismiss any formal complaint made under this Policy if at any time it determines that it lacks jurisdiction under Title IX because the conduct alleged in the formal complaint:

- Would not constitute sexual harassment as defined in Section II of this policy, even if proved,

- Did not occur in the District's education program or activity; or
- Did not occur against a person in the United States.

The District, in its sole discretion, may dismiss any formal complaint under this Policy if at any time:

- The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations;
- The Respondent is no longer enrolled in or employed by the District; or
- Specific circumstances exist that prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations. Examples include, but are not limited to, a significant passage of time from the date of the allegation(s) in the complaint to the date the complaint is filed that makes investigation impracticable, or where the Complainant has stopped participating in the process.

Dismissal of a complaint from proceeding under this Policy does not preclude the District from offering supportive measures to any party or from proceeding under any other applicable code of conduct or policy applicable to students and/or employees of the District.

Upon dismissal of any formal complaint under this section, written notice of this dismissal and the reason(s) therefor will be provided simultaneously to Complainant and Respondent.

5. Investigation

The Title IX Coordinator shall designate an Investigator to conduct an investigation into any formal complaint. The investigator must be appropriately trained in conducting Title IX investigations, unbiased, and have no conflict of interest in the present case. The investigator serves as a neutral fact-finder, and shall interview both parties, relevant witnesses, and gather and review evidence relevant to the outcome of the complaint.

The burden of proof and the burden of gathering sufficient evidence to reach a determination of responsibility rests with the District and not with the parties. Both parties will have an equal opportunity to present witnesses, including fact and expert witnesses, and other evidence (both inculpatory and exculpatory) to the Investigator. Neither party will be restricted in their ability to discuss the allegations or to gather and present relevant evidence; provided, however, that such communications shall not constitute harassment or retaliation against any party.

The Investigator will evaluate all relevant evidence, both inculpatory and exculpatory, and will not make credibility determinations based solely on a person's status as complainant, respondent or witness.

The Investigator will only access, consider, disclose, or otherwise use a party's treatment records made or maintained by a health care provider, or other records protected under a legally recognized privilege, if the party provides the Investigator with voluntary, written consent to do so.

Prior to completion of the Investigative Report, the Investigator will provide each party with copies of any evidence obtained by the Investigator that is directly related to the allegations in the complaint. Both parties will have ten (10) calendar days to submit a written response to the evidence to the Investigator. The District may require both parties to enter into a non-disclosure agreement prohibiting the use or dissemination of evidence for any purpose other than those directly related to the parties' participation in the Title IX grievance process.

6. Investigative Report

After conducting the investigation, the investigator will complete an investigative report that summarizes all relevant evidence, including statements and interviews with the parties and any witnesses, and any documents, records, photographs, recordings, or other evidence obtained by the investigator.

The investigative report will be distributed simultaneously to Complainant and Respondent at least ten (10) calendar days prior to a Hearing to determine responsibility.

7. Respondent Elects to Accept Responsibility.

If the Respondent admits responsibility for the alleged sexual harassment, the Investigator will document this admission and any other relevant findings and refer the matter to the Hearing Panel, who will hold a hearing for the limited purpose of issuing appropriate sanctions in response to the admitted conduct.

8. Conduct of the Hearing

Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in these proceedings. The Hearing Panel will follow such procedures and rules as may be necessary to promote a fair, impartial, respectful, and efficient hearing process, including by following hearing procedures for other types of hearings conducted by the District in response to alleged student or employee misconduct (See "District Hearing Panel Procedures" in ECC and MCC student handbooks). To the extent that these other procedures are inconsistent with the rights granted to students and employees under Title IX as set forth in this Policy, the provisions of this Policy shall govern unless otherwise provided by federal or state law.

The Hearing Panel will not require, allow, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Each party shall be represented during the live hearing by an advisor of their choice. If a party does not have an advisor, an advisor of the District's choice will be provided to conduct cross-examination.

Each party's advisor shall be permitted to conduct cross-examination of the other party and any witnesses, including all relevant questions and follow-up questions, including those challenging

Commented [MVH14]: If you have a similar hearing process laid out in any employee handbook, reference it here

Commented [CT15R14]: HR

Commented [CT16R14]: Make sure the evidence standard is the same for students and faculty/staff
Look to be certain all align (Hearings, etc)

Commented [CT17R14]: Gena will review our policies and we will review at our next meeting

Commented [CT18R14]: Staff handbook in the works

the credibility of the party or witness. Cross-examination will be conducted directly, orally, and in real time during the hearing. Under no circumstances will any party be allowed to conduct cross-examination personally.

All procedural questions, including the decision to accept evidence and/or statements, will be made by the Hearing Panel chair, in his or her sole discretion.

The Hearing Panel will determine the relevance of any cross-examination question before it is answered. Questions or evidence about a Complainant's sexual predisposition or prior sexual behavior are not relevant and shall be excluded, other than to establish that someone other than the Respondent committed the conduct alleged by Complainant, or if the questions concern specific incidents between Complainant and Respondent and are offered to provide consent.

If any party or witness does not submit to cross-examination during the hearing, the Hearing Panel will not rely on any statement of that party or witness in reaching a determination of responsibility. The Hearing Panel cannot draw an inference about responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

A recording or transcript will be made of the hearing and will be available to the parties for inspection and review.

At the request of either party, the hearing will be conducted with parties in separate rooms with technology enabling the decision-makers and parties to simultaneously see and hear the witness answering questions.

9. Standard of Proof

The determination of whether or not a violation of this Policy occurred will be made on the basis of whether it is more likely than not that the Respondent violated this Policy. This standard is more formally referred to as the "preponderance of evidence" standard. In making its determination, the Board will carefully consider all evidence presented and follow the procedures stated in this Policy and any other applicable sections of District policy, procedure, rule, or handbook provision in order to ensure as fair a hearing as possible for all parties.

10. Sanction

Sanctions and remedies will be determined on a case-by-case basis by the Hearing Panel. The Hearing Panel may impose or recommend any sanction that it finds to be fair and proportionate to the violation, including suspension or expulsion of a student or termination of an employee's employment. Remedy may include, but is not limited to, offers of counseling or any other supportive measure.

Commented [MVH19]: The college can choose whether to create an audio or visual recording or a transcript of the hearing

Commented [MVH20]: For employees with contracts under Iowa Code chapter, they have termination rights that exceed this policy – only the College's Board of Directors can terminate their continuing contracts. In cases where an employee is the respondent, you can do one of two things – (1) have the board serve as the hearing panel; or (2) have the hearing panel make a determination regarding responsibility (e.g., founded/unfounded) and then if they recommend (or the college otherwise determines to pursue) termination, the employee would be entitled to a board hearing on the recommendation for termination.

Commented [CT21R20]: HR review

Commented [CT22R20]: Gena will review and we will revisit at our next meeting

Commented [GG23R20]: I will visit with Dr. Fisher on the options but think that we would follow the process outline for contracted employees and if the recommendation is to terminate, that would be brought to the personnel committee of the BOD.

Possible Disciplinary Actions for Students (per Student Handbook)

1. Warning
2. Disciplinary counseling and/or referral to appropriate drug/alcohol treatment program or law enforcement agencies
 - a. Individual counseling
 - b. Disciplinary counseling on a group basis
3. Withholding of transcript or degree and/or loss of financial aid/scholarships
4. Probation
5. Expulsion/Suspension
 - a. Expulsion
 - b. Definite suspension
 - c. Indefinite suspension
 - d. Temporary suspension
6. More than one (1) of the sanctions listed above may be imposed for any single violation.

Commented [MVH24]:

You are required to "describe the range of...or list possible disciplinary sanctions or remedies."

Commented [CT25R24]: MCC student handbook p. 12
ECC p. 13

Commented [CT26R24]: HR will need to review for employee side

11. Written Decision

Within ten (10) business days of completing the hearing, the Hearing Panel will issue a written determination regarding responsibility, which shall be determined by a preponderance of the evidence. The written determination will include:

- Identification of the allegations;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including notifications to the parties, interviews, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact;
- Conclusions regarding the application of the College's code of conduct to the facts;
- A statement of and rationale for the decision-maker(s) determination regarding responsibility for each allegation;
- A statement of and rationale for any disciplinary sanctions that will be imposed on Respondent, if applicable;
- A statement of and rationale for any remedies the District will provide to restore or preserve Complainant's access to the District's program or activity, if applicable; and
- A statement of the District's appeal policy and procedures.

The Title IX Coordinator or his/her designee will provide the written determination to the parties simultaneously. The decision shall be final five (5) business days after delivery of the written determination, if no appeal is filed.

Commented [MVH27]: Your current policy says 5 business days – however, given the lengthy list of requirements for the written decision, we would recommend extending this timeline

Commented [CT28R27]: Keep this as is so it is consistent with the handbook but review both next year 2021

12. Appeals

Within five (5) calendar days of delivery of the written decision to them, either party may appeal the dismissal of a formal complaint, or the Hearing Panel's written decision and/or any sanction imposed by the Hearing Panel. Such appeals will be in writing and will be delivered to the Title IX Coordinator (or designee)--see Section II page 1-2 for contact information. The Appeal Decision-Maker (or designee) will determine if the written decision will be stayed pending the outcome of the appellate decision. Appeals will be limited to any of the following bases:

- A procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the written decision was issued that could affect the outcome of the matter; or
- The Title IX Coordinator, Investigator(s), or Decision-Maker had a conflict of interest or bias that affected the outcome of the matter.

The Title IX Coordinator (or designee) will notify both parties in writing if an appeal is received alleging one of the bases for appeal above. Both parties will be given an opportunity to submit a written statement in support of, or challenging, the written decision. The parties' written statements must be submitted within five (5) calendar days of notice of the appeal.

Except as required to explain the basis of new information, an appeal will be limited to a review of the written record of the investigation, hearing record, the Hearing Panel's written decision, and the parties' written statements on appeal.

The Appeal Decision-Maker (or designee) may affirm, reverse, or modify written decision and/or sanctions imposed, or may remand to the Investigator or Decision-Maker for further review. A written decision will be issued simultaneously to the parties describing the result of the appeal and the rationale therefor. The written appeal decision of the Appeal Decision-Maker (or designee) is the final decision of the District regarding responsibility.

All parties will be informed of the results of the appeal decision as promptly as possible.

A. Complainant Does Not Wish to Pursue Resolution or Requests Confidentiality

If the Complainant does not wish to pursue formal or informal resolution and/or requests that the report remains confidential, the Title IX Coordinator or designee will inform the Complainant that the District's ability to respond may be limited. The Title IX Coordinator may weigh the Complainant's request against the following factors:

- The seriousness of the alleged sexual misconduct,
- Whether there have been other complainants of sexual misconduct against the same Respondent, and
- The Respondent's right to receive information about the allegations, including the name of the complainant.

The Title IX Coordinator will only initiate a formal complaint against the wishes of the Complainant where it is not clearly unreasonable to do so, based on known circumstances (including the potential impact to the District community if the allegations were true). The Title

Commented [MVH29]: You can have the appeal delivered directly to the Appeal Decision-Maker or you can have it submitted to your TIX coordinator who will then ensure the appeal decision-maker receives the appeal.

Include address/email/telephone/website where appeals can be submitted

Your current student handbooks assign appeals to the Dean of Student Affairs (ECC) and the Provost (MCC). When designating the appeal decision-maker(s), consider the following:

- Ensure it is not the TIX Coordinator, Investigator, or any member of the Hearing Panel
- Who will be the appeal decision-maker for complaints where the respondent is an employee?

IX Coordinator or designee will inform the Complainant if the District cannot ensure confidentiality.

VIII. EXTERNAL REPORTING RESOURCES

A Complainant may choose to file a complaint with the state and federal agencies listed below.

Office for Civil Rights (OCR) – Chicago Office

U.S. Department of Education
Citigroup Center
500 W. Madison Street, Suite 1475
Chicago, IL 60661
Phone: (312) 730-1560
Fax: (312) 730-1576 TDD: (877) 521-2172
Email: OCR.Chicago@ed.gov
Web: www.ed.gov/ocr

Equal Employment Opportunity Commission (EEOC)

Reuss Federal Plaza
310 W. Wisconsin Avenue, Suite 800
Milwaukee, WI 53203-2292
Phone: (800) 669-4000
Fax: (414) 297-4133
TTY: (800) 669-6820
Web: www.eeoc.gov/

Iowa Civil Rights Commission (ICRC)

Grimes State Office Building
400 E. 14th Street
Des Moines, IA 50319
Toll free: (800) 457-4416
Phone: (515) 281-4121
Fax: (515) 242-5840
TDD: (877) 521-2172
Web: <https://icrc.iowa.gov/>

IX. PREVENTION, TRAINING, AND POLICY COMMUNICATION

The District is committed to education, communication and training in order to prevent sexual misconduct and to assure an appropriate response when incidents occur. The District will provide information on the following to students, faculty and staff:

- Defining and preventing sexual harassment;
- District procedures for responding to incidents of sexual misconduct; and

- Employee obligation to report any sexual harassment of which the employee becomes aware.

The District will provide training on the above information to all District personnel involved in providing any part of the District's response to reports of alleged sexual misconduct.

The District will also ensure that individuals who serve as Title IX Coordinators, Title IX Investigators, Decision-Makers, Appeal Decision-Makers, and facilitators of the informal resolution process have adequate training on the definition of sexual harassment, the scope of the District's education program or activity, how to conduct the District's investigation and grievance process, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts, conflicts of interest, and bias. Decision-Makers will also receive training on any technology to be used during the live hearing, relevance of questions and evidence, and exclusion of questions or evidence under applicable "rape shield" laws, rules, or regulations. Investigators must also receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Training materials will not rely on sex stereotypes and will promote impartial investigations and adjudications of formal complaints under this Policy. This training may include expertise drawn from campus and community resources, professional organizations, and other experts on the topic of sexual misconduct.

The District will maintain materials used to train its employees on a website and will provide information about this Policy to all new students and employees through orientation and annually thereafter. This Policy is also available for distribution in printed form by the District's Title IX Coordinator.

X. RECORDKEEPING

The District will maintain the following records for seven years from the date of closure of the complaint:

- Each sexual harassment investigation, including determinations, audio or video recordings, disciplinary sanctions, and any remedies provided to the Complainant;
- Any appeal and the result therefrom;
- Any informal resolution; and
- All materials used by the District to train Title IX Coordinators, investigators, decision-makers, and those who facilitate informal resolution under this Policy.

Additionally, the District will create and maintain for seven years from the date of closure of any complaint:

- Any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment;
- Documentation of the basis for the District's conclusion that its response to any such report or complaint was not deliberately indifferent;
- Documentation that the District has taken measures designed to restore or preserve access to the District's educational program or activity;

- Where no supportive measures are provided to Complainant, documentation of why it was not clearly unreasonable to do so.