

BCCC

Baltimore City Community College

TITLE IX



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Sexual Misconduct Procedures

I. SCOPE, APPLICABILITY, AND JURISDICTION

All students, faculty, and staff of the College are subject to these Procedures. These Procedures apply to Prohibited Conduct that occurs on or after August 14, 2020.

This Policy applies to reported acts of Prohibited Conduct committed by or against students, faculty, staff when:

- A. Conduct occurs on College premises, in any College facility, or on property owned or controlled by the College;
- B. Conduct occurs in the context of a College Education Program or Activity, including, but not limited to, College-sponsored academic, athletic, extracurricular, study abroad, research, online or internship programs or activities; or
- C. Conduct occurs outside the context of a College Education Program or Activity but has continuing adverse effects on or creates a hostile environment for students or employees while on College premises or other property owned or controlled by the College or in any College Education Program or Activity.

Conduct that falls outside the scope of these Procedures may still violate the BCCC Student Code of Conduct and/or other College policies and may be addressed through other College processes.

II. DEFINITIONS

- A. **Advisor** means a person chosen by a Party to provide advice and consultation to that Party. An Advisor may be, but is not required to be, an attorney. A Party's Advisor conducts all questioning on behalf of that Party at a Hearing, if applicable. If a Party does not have an Advisor for a Hearing, the College will provide one without fee or charge.
- B. **Appeal Decision Maker** means an individual designated to review decisions concerning responsibility and Sanctions, based on the Respondent's status as a student, staff member, or faculty member. Appeal Decision Makers shall have had no previous involvement with the substance of the Formal Complaint.
- C. **Complainant** means the individual who is alleged to be the victim of Prohibited Conduct that could constitute a violation of these Procedures.
- D. **Consent** means affirmative and voluntary agreement to engage in sexual activity.
 - 1. It is the responsibility of each person involved in the sexual activity to ensure that the person has the Consent of the other or others to engage in the sexual activity.
 - 2. Lack of protest, resistance or silence is not Consent.
 - 3. Consent must be ongoing throughout a sexual activity and can be revoked at any time.
 - 4. Consent may be based on a condition (e.g., the use of a condom). If so, such conditions must continue to be met throughout an activity, unless there is mutual agreement to forego or change the conditions.
- E. **Day** means a calendar day when the College is not closed.

- F. Decision Maker** means a person designated to preside over the Hearing who has decision-making and sanctioning authority within the adjudication process.
- G. Education Program or Activity** means all of the College’s operations (including employment); locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the Prohibited Conduct occurs, and any building owned or controlled by a student organization that is officially recognized by the College.
- H. Formal Complaint** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the College investigate the allegation. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, by e-mail, or any additional method designated by the College.
1. “Document filed by a Complainant” means a document or electronic submission that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.
 2. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party.
- I. Hearing** means a live, formal proceeding attended by the Parties in which evidence is presented, witnesses are heard, and cross-examination occurs, prior to the Decision Maker’s decision concerning responsibility and Sanctions, if applicable. The Hearing is conducted by a Decision Maker.
- J. Incapacitation** means an individual’s decision-making abilities are impaired such that the individual lacks the ability to understand the “who, what, where, why, or how” of the activity. A person who is incapacitated is unable to voluntarily agree (that is, to Consent) to sexual activity because the person is asleep, unconscious, under the influence of a substance such that the person does not have control over their body, is otherwise unaware that sexual activity is occurring or has a permanent mental or developmental disability that impairs the ability to Consent to sexual contact.
- K. Investigator** means a professionally trained staff member or third-party contractor designated to conduct an impartial, fair, and unbiased investigation into an alleged violation of these Procedures.
- L. Party** means the Complainant or the Respondent (collectively, the “Parties”).
- M. Remedies** are actions designed to restore or preserve the Complainant’s equal access to the College’s Education Program or Activity. Remedies are similar to Supportive Measures but may be punitive and burden the Respondent.
- N. Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute Prohibited Conduct.

- O. Responsible Employees** are employees designated by the College who are required to report incidents of alleged Prohibited Conduct to the Title IX Coordinator. All College faculty and staff (who are not confidential resources) are responsible employees including but limited to College administrators, supervisors, faculty members, Public Safety employees, athletic coaches, athletic trainers, and first responders .
- P. Support Person** means a person chosen by the Complainant or Respondent to provide emotional, logistical, or other kinds of assistance. The Support Person is a non-participant who is present to assist a Complainant or Respondent by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the Party in a way that does not disrupt or cause any delay.
- Q. Supportive Measures** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Parties before or after the filing of a Formal Complaint. Such measures are designed to restore or preserve equal access to the Education Program or Activity without unreasonably burdening the other Party, including measures designed to protect the safety of all parties or the College’s educational environment, or deter Prohibited Conduct. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or course schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.
- R. Witness** means an individual who possesses information about a matter under investigation. This generally applies to anyone who has witnessed or provides information and/or observations regarding Prohibited Conduct.

III. PROHIBITED CONDUCT

- A. Sexual Harassment** is Conduct, on the basis of sex (to include sexual orientation and gender identity), that satisfies one or more of the following:

 - 1. Hostile Environment:** Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College’s Education Program or Activity.
 - 2. Quid Pro Quo:** An employee of the College conditioning the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct.
 - 3. Sexual Assault:** An offense classified as a sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sex Offenses are any sexual acts including Rape, Sodomy, Sexual Assault with An Object, or Fondling directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent; also, unlawful sexual intercourse (Incest or Statutory Rape).

 - a. Rape - 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, including instances where the victim is incapable of giving consent because of age or temporary or permanent mental or physical incapacity.

- b. **Sodomy** - Oral or anal sexual intercourse with another person, without the Consent of the victim, including instances where the victim is incapable of giving consent because of age or temporary or permanent mental or physical Incapacitation.
 - c. **Sexual Assault with an Object** - To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the Consent of the victim including instances where the victim is incapable of giving consent because of age or temporary or permanent mental or physical Incapacitation.
 - d. **Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification without the Consent of the victim, including in instances where the Complainant is incapable of giving consent because of age or temporary or permanent mental or physical Incapacitation.
 - e. **Incest** - Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - f. **Statutory Rape** - Nonforcible sexual intercourse with a person who is under the statutory age of consent.
4. **Dating Violence:** Violence¹ committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship is determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
5. **Domestic Violence:** Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant, or by any other person against an adult or youth Complainant protected from those acts by domestic or family violence laws of Maryland.
6. **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress.
- B. Retaliation** means intimidating, threatening, coercing, discriminating against, or otherwise taking an adverse action against an individual for the purpose of interfering with any right or privilege secured by law or College policy relating to Prohibited Conduct, or because an individual has made a report, filed a complaint, testified, assisted, participated, or refused to participate in any manner in an investigation, proceeding, or Hearing related to Prohibited Conduct. Adverse actions include but are not limited to impeding an individual's academic

¹ Violence is the intentional use of physical force or power, threatened or actual, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation.

advancement; terminating, refusing to hire, or refusing to promote an individual; or transferring or assigning an individual to a lesser position in terms of wages, hours, job classification, or job security.

Retaliation includes retaliatory harassment. Retaliation includes making charges against an individual for violations of other College policies that do not involve Prohibited Conduct, but arise out of the same facts or circumstances, for the purpose of interfering with any right or privilege secured by law. However, charging an individual with a violation of other College policies for making a materially false statement in bad faith in the course of a proceeding does not constitute Retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any Party made a materially false statement in bad faith. The exercise of rights protected under the First Amendment does not constitute Retaliation.

C. Other Sexual Misconduct is Sexual Harassment that occurred against a person outside of the United States or not within an Education Program or Activity.

IV. REPORTING PROHIBITED CONDUCT

Individuals are encouraged to report Prohibited Conduct promptly in order to maximize the College's ability to obtain evidence, identify potential Witnesses and conduct a thorough, prompt, and impartial investigation. While there are no time limits to reporting Prohibited Conduct, if too much time has passed since the incident occurred, the delay may result in loss of relevant evidence and/or an inability on the part of the College to remedy the situation.

A. Title IX Coordinator

Any person may report Prohibited Conduct, whether or not the individual reporting is the person alleged to have experienced the conduct. Individuals should report Prohibited Conduct to the College's Title IX Coordinator:

Title IX Coordinator
Dr. Sherri Anna Brown
2901 Liberty Heights Avenue
Baltimore, Maryland 21215
Main Building, Suite 212
410-462-7782
sbrown1@bcc.edu

B. Reporting to Responsible Employees

Any person may report Prohibited Conduct to Responsible Employees. Upon receiving a report of Prohibited Conduct, the Responsible Employee must do the following:

1. Advise the reporting party of the Responsible Employee's duty to report the allegations to the Title IX Coordinator within twenty-four (24) hours, or as soon as reasonably possible, of receiving such information;
2. Notify the Title IX Coordinator of the complaint within twenty-four (24) hours, or as soon as reasonably possible, of receiving the report, and consult with the Title IX Coordinator, as needed;

Failure of a Responsible Employee to comply with these requirements may result in disciplinary Sanctions, up to and including termination of employment. No employees—other than employees of the Department of Public Safety or those employees designated as investigators—are authorized to investigate or resolve reports of Prohibited Conduct without the involvement of the Title IX Coordinator.

C. Police and/or Department of Public Safety

Regardless of where the incident occurred, call 911 in an emergency.

Prohibited Conduct, particularly Sexual Assault, may be a crime. In addition to reporting to the Title IX Coordinator set forth above, the College strongly encourages any victim of a potential crime to report it to the appropriate law enforcement agency, even if you are uncertain whether the particular conduct is a crime.

Department of Public Safety
2901 Liberty Heights Avenue
Baltimore, Maryland 21215
Main Building 058
410-462-7700

The College will assist Complainants who wish to report Prohibited Conduct to law enforcement authorities.

Calling local law enforcement can help you: obtain emergency and nonemergency medical care; get immediate law enforcement response for your protection; understand how to provide assistance in a situation that may escalate to more severe criminal behavior; arrange a meeting with a victim advocate service; find counseling and support; initiate a criminal investigation and help to secure valuable evidence; and answer questions about the criminal process.

V. SIMULTANEOUS CRIMINAL PROCEEDINGS

Because the standards for violations of criminal laws are different from the standards for a violation of these Procedures, criminal investigations and proceedings are not determinative of whether a violation of these Procedures has occurred. In other words, conduct may violate these Procedures even if law enforcement agencies decline to charge or local prosecutors decline to prosecute.

Proceeding with an investigation and adjudication of Prohibited Conduct under these Procedures is independent of any criminal investigation or proceeding. Reporting to law enforcement does not preclude a person from proceeding with a report or Formal Complaint of Prohibited Conduct under these Procedures. In most cases, the College will not wait until a criminal investigation or proceeding is concluded before conducting its own investigation, implementing Supportive Measures, and taking appropriate action. However, at the request of law enforcement, the Title IX Coordinator may delay its investigation.

VI. AMNESTY FOR STUDENTS WHO REPORT OR PARTICIPATE

The College recognizes that students who are under the influence of alcohol and/or drugs when an incident of Prohibited Conduct occurs may be reluctant to report the Prohibited Conduct out of concern that they may face disciplinary actions for engaging in prohibited alcohol or drug use. As such, a student

who reports or participates in a Prohibited Conduct process with the College or law enforcement, or who participates in an investigation as a Complainant, Respondent or Witness, will not face disciplinary action for violating College drug and alcohol policies. This amnesty provision applies only when the College determines that: (1) the drug/alcohol violation occurred during or near the time of the reported Prohibited Conduct; (2) the student acted in good faith in reporting or participating as a Complainant, Respondent, or Witness; and (3) the violation was not an act that was reasonably likely to place the health or safety of another individual at risk. The use of alcohol or drugs will never function as a defense for committing any violation of these Procedures.

VII. PRIVACY AND CONFIDENTIALITY

If the Title IX Coordinator becomes aware that Prohibited Conduct is alleged to have occurred, the College has an obligation to review the available information and determine whether to proceed to an investigation. In this context, Privacy and Confidentiality have distinct meanings.

A. Privacy

Information related to a complaint will be shared with only a limited number of College employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are responsible for the College’s response to Prohibited Conduct receive specific training and guidance about sharing and safeguarding private information in accordance with State and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), and the privacy of employee records will be protected in accordance with COMAR and College policy.

B. Confidentiality

Confidentiality exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. These laws create privileges between certain health care providers, attorneys, clergy, and spouses, with their patients, clients, parishioners, and spouses, respectively.

1. Students

Individuals who work with students at the Student Support and Wellness Center have the duty to keep communications with students confidential.

Cortney Merritt
Student Support and Wellness
2901 Liberty Heights Avenue
Baltimore, Maryland 21215
Main Building, Suite 260
410-462-8328
cmerritt@bcc.edu

2. Employees

Employees who want access to confidential resources may access the Employee Assistance Program (“EAP”) by calling 1-888-993-7650 or by accessing the website at

C. Interaction between Privacy and Confidentiality

1. The College will make reasonable and appropriate efforts to preserve an individual's privacy and protect the confidentiality of information. However, the College cannot guarantee confidentiality relating to incidents of Prohibited Conduct except where those reports are privileged communications to confidential resources. Even then, there are exceptions to maintaining confidentiality set by law; for example, physicians and nurses who treat any physical injury sustained during a sexual assault are required to report it to law enforcement. Also, physicians, nurses, psychologists, psychiatrists, teachers and social workers must report a sexual assault committed against a person under age 18. Except for confidential resources, information shared with other individuals is not legally protected from being disclosed.
2. Should a Complainant make a request that the College not disclose the Complainant's identity to the Respondent, the Title IX Coordinator will inform the Complainant that the College's ability to respond to the allegations and Investigate may be limited if the request is granted.
3. Whether or not the Complainant requests privacy, the College will keep private the identity of all Complainants, Respondents, and Witnesses, except as necessary to carry out these Procedures or as may be required by FERPA or other laws.

VIII. RIGHTS OF PARTIES

Parties will be treated with dignity, respect, and sensitivity by College officials during all phases of the process. These Procedures are designed to allow for a fair and impartial investigation, as well as prompt and equitable proceedings and resolutions that provide an opportunity for the Parties to be heard.

A. Parties will be given timely written notice of:

1. The reported violation, including the date, time and location, if known, and the range of potential Sanctions associated with the alleged violation;
2. Their rights and responsibilities under the Policy and these Procedures, and information regarding other civil and criminal options;
3. The date, time, and location of each meeting, interview, or Hearing that the Party is required or permitted to attend;
4. The final determination made by the Decision Maker regarding whether a Policy violation occurred and the basis for the determination;
5. Any Sanction imposed, as permitted by law; and
6. The rights to appeal and a description of the appeal process.

B. Parties will be provided with notice before the start of the resolution process of:

1. The Party's right to the assistance of an Advisor, who may be an attorney or advocate;
2. The legal service organizations and referral services available to the Party; and
3. The Party may have a Support Person of the Party's choice at any meeting, interview or Hearing;
4. Access to the case file and evidence regarding the incident obtained by the College during the investigation or considered by the Hearing Panel, with personally identifiable or other information redacted as required by applicable law;
5. An opportunity to be heard through the process;
6. An opportunity to offer testimony at a Hearing;
7. An opportunity to submit evidence, witness lists, and suggest specific questions to be posed to the other Party during the investigation, or to the other Party at a Hearing through the Party's Advisor;
8. An opportunity to review and provide testimony in a way in which the Parties are not required to be in the physical presence of one another (i.e., through appropriate technology);
9. An opportunity to review and provide written responses to the proposed and final investigation reports;
10. An opportunity to participate at a Hearing without being required to be in the physical presence of the other Party; and
11. An opportunity to appeal a determination and/or Sanction.

IX. EMERGENCY REMOVALS AND ADMINISTRATIVE LEAVE

A. Emergency Removal of Student Respondents

Based on an initial report or Formal Complaint of Prohibited Conduct, the Title IX Coordinator may undertake an individualized safety and risk analysis to determine whether the allegations indicate the Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations Prohibited Conduct. If the College determines removal is appropriate, the Respondent will be provided with notice and an opportunity to challenge the decision within five (5) Days of the emergency removal.

B. Administrative Leave of a Non-Student Respondent

The College may place a non-student Respondent on administrative leave after notice of a report of Prohibited Conduct and during the pendency of resolution of the matter.

X. TRAINING, EDUCATION, AND COOPERATIVE EFFORTS

Creating an environment free of Prohibited Conduct is the responsibility of all members of the College community. In addition to the investigation and adjudicative procedures, BCCC is committed to fostering a campus climate that is free from Prohibited Conduct through education and prevention programs.

A. Prevention and Awareness Education

The College shall develop and implement preventive education, directed toward employees and students, to help reduce the occurrence of Prohibited Conduct. At a minimum, educational initiatives for incoming students and employees must include the following:

1. the Policy and Procedures, including the definitions of Consent and Prohibited Conduct;
2. description of safe and positive options for bystander intervention;
3. information on risk reduction; and
4. the definitions of “Dating Violence,” “Domestic Violence,” “Sexual Assault,” and “Stalking” in Maryland.

The College must also develop ongoing prevention and awareness campaigns for all students and employees addressing, at a minimum, the same information regarding Prohibited Conduct. Educational initiatives for employees shall comply with Md. Code Ann., State Pers. & Pens. § 2-203.1.

B. Training for Personnel Involved in Investigations and Resolutions

All persons involved in any way in responding to, investigating, or adjudicating reports of Prohibited Conduct must have annual training on issues related to Dating Violence, Domestic Violence, Sexual Assault, and Stalking; and how to investigate and conduct a Hearing that protects the Parties and promotes accountability.

The College will ensure that the Title IX Coordinator, Investigators Decision Makers, Appeal Decision Makers, and individuals who facilitate informal resolution processes, receive training on the following:

1. the definition of Prohibited Conduct;
2. the scope of the College’s Education Program or Activity;
3. how to conduct an investigation and adjudication process including Hearings, appeals, and informal resolution processes, as applicable;
4. how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
5. issues of relevance.

The College will ensure that Decision Makers will receive additional training on:

1. technology to be used at a live Hearing; and
2. issues of relevance of questions and evidence, including when questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant.

Training materials will not rely on sex stereotypes and will promote impartial investigations and adjudications of Formal Complaints.

The College will make its training materials publicly available on its website.

C. Agreements with Local Law Enforcement and Rape Crisis Programs

BCCC will review any existing, and if necessary, pursue new, memoranda of understanding (“MOU”) with local police forces and State designated rape crisis programs and/or federally

recognized sexual assault coalitions. BCCC will ensure that any MOU with any law enforcement agency complies with Title IX and clearly states when BCCC will refer a matter to a local law enforcement agency. Any MOU with rape crisis or sexual assault programs will formalize a commitment to provide trauma-informed services to victims of sexual assault and to improve the College's overall response to sexual assault.

D. Campus Sexual Assault Climate Survey

Every two years, the College shall (1) develop an appropriate Sexual Assault campus climate survey using nationally recognized best practices for research and climate surveys; and (2) administer the survey to students in accordance with the procedures set by the Maryland Higher Education Commission ("MHEC") and requirements set forth in Md. Code Ann., Educ., § 11-601(g).

XI. RECORDKEEPING

The College will keep records of the following for a minimum of seven (7) years:

- A. Investigations and Determinations.** Each investigation, including any determination regarding responsibility;
- B. Recordings and Transcripts.** Any audio or audiovisual recording or transcript;
- C. Sanctions.** Any Sanctions imposed on a Respondent;
- D. Remedies.** Any Remedies provided to the Complainant designed to restore or preserve equal access to the Education Program or Activity;
- E. Appeals.** Any appeal and the result thereof;
- F. Informal Resolutions.** Any informal resolution and the result therefrom;
- G. Training Materials.** All materials used to train Title IX Coordinators, Investigators, Decision Makers, and any person who facilitates an informal resolution process; and
- H. Supportive Measures.** Any Supportive Measures, taken in response to a report or Formal Complaint of Prohibited Conduct. In each instance, the College must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to its Education Program or Activity. If the College does not provide a Complainant with Supportive Measures, then it must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the College in the future.

XII. EXTERNAL REPORTING OBLIGATIONS

The Title IX Coordinator shall ensure that each Complainant is informed of their right to file the complaint with the appropriate State and Federal agencies. In the event a Complainant files an external

complaint with a State or Federal agency, the Complainant is responsible for contacting that agency to determine and comply with any filing requirements or time limitations.

A. Clery Act

The College will continue to report crimes in accordance with the Crime Awareness and Campus Security Act of 1990 (“Clery Act”) and its amendments. If a report of Prohibited Conduct discloses a serious and on-going threat to the College community, the Department of Public Safety may issue a timely warning in compliance with the Clery Act. This notice will not contain any personally identifying information related to the Parties.

B. Employees may contact any of the following offices to file complaints:

Equal Employment Opportunity Commission (EEOC)

Baltimore Field Office
GH Fallon Federal Building
31 Hopkins Plaza, Suite 1432
Baltimore, MD 21201
Phone: 1-800-669-4000
Fax: 410-209-2221
TTY: 1-800-669-6820
Website: <https://www.eeoc.gov>

Maryland Commission on Civil Rights (MCCR)

William Donald Schaefer Tower
6 Saint Paul Street, Suite 900
Baltimore, MD 21202-1631 Phone: 410-767-8600
Toll free: 1.800.637.6247
Fax: 410-333-1841
TTY: 410-333-1737
Website: <http://mccr.maryland.gov/>
E-mail: mccr@maryland.gov

C. Student or employee complaints relating to Prohibited Conduct may also be directed to:

Office for Civil Rights (OCR)

U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Phone: 215-656-8541
Fax: 215-656-8605
TDD: 800-877-8339

Website: http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html

E-mail: OCR.Philadelphia@ed.gov

To direct an inquiry to the Assistant Secretary for Civil Rights of the U.S. Department of Education, contact:

Office for Civil Rights

U.S. Department of Education
Lyndon Baines Johnson Department of Education Building

400 Maryland Avenue SW,
Washington, DC 20202-1100

Phone: 800-421-3481

Fax: 202-453-6012

TDD: 800-877-8339

Website: <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

Email: OCR@ed.gov

XIII. ANTICIPATED TIMELINES

The College strives to resolve all complaints within reasonably prompt time frames depending on the nature, extent, and complexity of the allegations and resolution. Good faith efforts will be made to complete informal resolutions and formal resolutions in a timely manner, typically within 60 Days, by balancing principles of thoroughness and fundamental fairness. The Title IX Coordinator and/or designee will communicate regularly with the Parties to update them on the progress and timing of the resolution processes, including any temporary delays and/or extensions for good cause. The Title IX Coordinator and/or designee may grant good cause extensions and/or delays throughout the resolution processes, and the Parties will be notified in writing and given the reason(s) for the extensions and/or delay. Factors considered in granting or denying an extension may include considerations such as, but not limited to, the following: the absence of a Party, a Party's Advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodations of disabilities.

XIV. REPORTS, FORMAL COMPLAINTS, INVESTIGATIONS, RESOLUTIONS, AND APPEALS

A. Immediate Actions Upon Receipt of Report of Prohibited Conduct

Upon receipt of a report of Prohibited Conduct, the Title IX Coordinator will promptly contact the Complainant and inform the Complainant both orally and/or, by e-mail, by certified mail or by any additional method designated by the College:

1. of the availability of Supportive Measures, including that Supportive Measures are available with or without filing a Formal Complaint;
2. of the availability of confidential counseling resources both on and off campus;
3. how to file a Formal Complaint;
4. that, if the reported conduct could be a crime, the Complainant has the right but not the obligation to file a police report, and that if there is a police investigation, the Title IX Coordinator will coordinate with law enforcement; and
5. of the importance of preserving evidence and identifying and locating Witnesses.

If the Title IX Coordinator determines that the conduct alleged does not fall within the scope of these Procedures, the Title IX Coordinator may also inform the Complainant that the matter may be referred to another BCCC process. Even if the matter is referred, the Complainant will still receive an offer of supportive measures.

B. Supportive Measures

Supportive measures include, but are not limited to:

1. confidential counseling to community members, through the Student Support and Wellness Office for students, and through the EAP process for Faculty/Staff;
2. extensions of deadlines or other course-related adjustments;
3. modifications of work or class schedules;
4. campus escort services;
5. mutual restrictions on contact between the Parties;
6. changes in work locations;
7. leaves of absence; and
8. increased security and monitoring of certain areas of the campus.

The College will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the Supportive Measures.

The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures. The Title IX Coordinator will consider the Complainant's wishes with respect to Supportive Measures.

If the College does not provide a Complainant with Supportive Measures, then it must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the College in the future.

The Title IX Coordinator will promptly inform the Respondent (if they are a member of the College community) of any Supportive Measures that will directly impact the Respondent. The Respondent may raise any concerns about the Supportive Measures with the Title IX Coordinator.

The Title IX Coordinator and/or designee(s) retain discretion to impose and/or modify any Supportive Measures based on all available information. Supportive Measures may remain in effect until the College's final resolution of the Formal Complaint. Supportive Measures may be extended, as needed, after the final resolution.

C. Filing a Formal Complaint²

After the initial report, the investigation and resolution process will not move forward until a Formal Complaint is filed. A Formal Complaint can be filed in one of two ways:

1. **Complainant submits Formal Complaint.** A Complainant may complete and sign a Formal Complaint alleging Prohibited Conduct against a Respondent and requesting that the College investigate the allegations.

² At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in one of the College's Program or Activity. Attempting to participate includes circumstances where the Complainant has taken a leave of absence or has otherwise discontinued participation in College's Program or Activity but intends to return to their College affiliation.

2. **Title IX Coordinator submits Formal Complaint.** The Title IX Coordinator may complete and sign a Formal Complaint. Some circumstances require the College to move forward with an investigation, even if the Complainant requests otherwise. The College’s decision is subject to a balancing test that requires the College to consider a range of factors, including:
 - a. The status of the Respondent and whether the Respondent has authority over students and/or staff;
 - b. Whether there have been multiple reports of Prohibited Conduct relating to a single Respondent;
 - c. The seriousness of the alleged Prohibited Conduct (e.g., whether the alleged conduct involved a weapon, physical restraints, or battery);
 - d. Whether there is a likelihood that the Respondent would be a danger to the Complainant or the BCCC community;
 - e. The age of the Complainant;
 - f. Whether the report of Prohibited Conduct can be effectively addressed through another type of intervention; and
 - g. The ability of the College to obtain relevant evidence.

D. Designation of Prohibited Conduct and Dismissal of Formal Complaint

Upon receipt of a Formal Complaint, the Title IX Coordinator shall make an initial assessment as to whether a Formal Complaint submitted by a Complainant contains sufficient allegations on its face to describe an act of Prohibited Conduct. If the assessment reveals that there is insufficient information, the Title IX Coordinator can request additional information from the Complainant and inform the Complainant that a Notice of Formal Complaint cannot be issued, and an investigation cannot go forward until more information is provided.

“Title IX-based Prohibited Conduct” is Sexual Harassment that occurred within an Education Program or Activity against a member of the BCCC community. The Title IX Coordinator or designee must designate the conduct as Title IX-based Prohibited Conduct if:

1. The alleged conduct, if true, would constitute Sexual Harassment within an Education Program or Activity against a member of the BCCC community; and
2. The Complainant is participating or attempting to participate in an Education Program or Activity at the time the Complainant or Title IX Coordinator filed the Formal Complaint.

Upon receipt of a Formal Complaint and after an initial assessment, the Title IX Coordinator or designee will promptly send a Written Notice of Designation simultaneously to both Parties of:

1. Its decision about whether to designate the alleged conduct as Title IX-based Prohibited Conduct, and the reasons for this decision;
2. Its decision to proceed with the resolution process or to dismiss the Formal Complaint; and

3. The Parties' rights to appeal the designation and/or dismissal decision.

E. Dismissal

1. Mandatory Dismissal

The Title IX Coordinator must dismiss the Formal Complaint if it is determined that the conduct alleged in the Formal Complaint, if substantiated, would not constitute Prohibited Conduct, or the allegations in the Formal Complaint do not fall within the College's jurisdiction.

2. Discretionary Dismissal

The College may dismiss the Formal Complaint if:

- a. The Respondent is no longer enrolled or employed by the College;
- b. Specific circumstances prevent the College from gathering sufficient evidence to reach a determination; or
- c. The Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the Formal Complaint or allegations therein.

3. Referral. In the event of dismissal, the Title IX Coordinator may refer some or all of the matter for consideration under another applicable College policy or procedure, if any.

4. Notice of Dismissal. Upon dismissal, the College shall promptly send a Notice of Dismissal, including the reasons for the dismissal, simultaneously to the Parties. If the matter is being referred to another College procedure because it does not constitute Prohibited Conduct, but could violate other College policies, that information will be included in the notice as well.

5. Right to Appeal Notice of Dismissal. The Parties may appeal a Notice of Dismissal in accordance with the appeal procedures set forth below.

F. Notice of Formal Complaint

1. The College will provide notice of Formal Complaint to the Parties for whom the College knows their identity, including the following details:

- a. A description of the College's Procedures, including any informal resolution process.
- b. A description of the allegations including sufficient details known at the time such as:
 - i. the identities of the Parties involved in the incident;
 - ii. the conduct allegedly constituting Prohibited Conduct; and
 - iii. the date and location of the alleged incident.
- c. 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 resolution process.

- d. A statement that the Parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence as described herein.
2. The Notice of Formal Complaint will be provided with sufficient time to respond and prepare for any investigative interviews.
3. After receiving Notice of Formal Complaint, both the Complainant and the Respondent will be asked to identify any academic, employment, or other significant conflicts that would affect the timing of the investigation and potential Hearing. The Title IX Coordinator will consider this input in finalizing any Hearing Schedule.
4. Ongoing Notice Requirement. If, in the course of an investigation, the College decides to investigate allegations about the Complainant or Respondent that are not included in the initial Notice of Formal Complaint provided, the College will provide notice of the additional allegations to the Parties whose identities are known.

XV. INFORMAL RESOLUTIONS

At any time after a Formal Complaint is filed, the Title IX Coordinator may choose to offer and facilitate an informal resolution process, so long as both Parties give voluntary, informed, written consent to attempt informal resolution. The College may not require the Parties to participate in an informal resolution process or require it as a condition of enrollment, employment, or enjoyment of any other right. An election to participate in an informal resolution does not constitute a waiver of the right to a formal investigation and adjudication of formal complaints of Prohibited Conduct. Any person who facilitates an informal resolution will be experienced and trained in dispute resolution and trained on these Procedures. Parties who choose to engage in an Informal Resolution will be provided with a written notice disclosing: The allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

A. Withdrawing from an Informal Resolution Process

The Parties may elect to leave the informal resolution process at any point until the informal resolution process is concluded and an agreement is signed by the parties. If a Party elects to leave the informal resolution process, the formal resolution process recommences.

B. Matters Not Eligible for Informal Resolution

The College will not facilitate an informal resolution process for matters involving allegations that an employee sexually harassed a student or allegations involving sexual assault or sexual coercion.

C. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged violation(s) at any point during the resolution process. If the Respondent accepts responsibility, the Title IX Coordinator and/or designee(s) makes a determination that the individual is in violation of the Policy & Procedures as to the admitted Prohibited Conduct. The Decision Maker who determines the appropriate interventions, remedies, and/or sanction(s) will be the Vice President for Student Affairs (or designee) for student respondents and the Vice President/Assistant Vice President (or designee) for Human Resources for faculty/staff respondents. Sanctions will be implemented in a reasonably timely manner as in order to effectively stop the Prohibited Conduct, prevent its recurrence, and remedy its effects. The process then concludes, and the Parties will be informed of this outcome. Appeals by either Party are not permitted in this instance. Any remaining allegations for which Respondent opts not to accept responsibility may proceed or continue to informal resolution, investigation and adjudication, and/or dismissal as appropriate and determined by the Title IX Coordinator and/or designee(s).

D. Completion of Informal Resolution

When an informal resolution agreement is reached and the terms of the agreement are implemented, the matter is resolved and closed. Appeals by either Party are not permitted. The Title IX Coordinator and/or designee(s) is responsible for ensuring compliance with the informal resolution. In cases where an agreement is not reached and the Title IX Coordinator and/or designee(s) determines that further action is necessary, or if either Party fails to comply with the terms of the informal resolution, the matter may be referred for an investigation and adjudication and/or dismissal under these Procedures, as appropriate. The Parties will be provided with a written copy of the terms of the informal resolution agreement. The Title IX Coordinator and/or designee(s) will maintain all records regarding informal resolution.

XVI. INVESTIGATIONS

Allegations in any Formal Complaint not subject to dismissal and not resolved in an informal resolution will proceed to an investigation. The investigation phase is the period during which the Investigator gathers information about the allegations. This period of time is the Parties' opportunity to provide input regarding the collection of evidence, but the burden of gathering evidence and the burden of proof is on the College. The College may, in its discretion, consolidate the investigation of multiple Formal Complaints where the allegations arise out of the same facts.

A. Advisors and Support Persons

A Party may be accompanied to any meeting held by the Title IX Coordinator or designee under these Procedures by up to two (2) people, including one (1) Support Person, and one (1) Advisor. When a Party wishes to be accompanied by a Support Person or Advisor to a meeting, the Party must notify the Title IX Coordinator at least 24 hours in advance.

Throughout the process, the Title IX Coordinator or designee will communicate and correspond directly with the Parties, not indirectly through a Support Person or Advisor, except during questioning at a Hearing.

Prior to meetings and Hearings, all Support Persons and Advisors must review non-Party participation requirements, which define their respective roles, appropriate decorum, and confidentiality obligations relative to the proceedings.

B. Legal Representation Fund for Title IX Proceedings (Students Only)

Student Complainants and Respondents may elect to retain an attorney to serve as their Advisor, though assistance by an attorney is not required. The Maryland Higher Education Commission (“MHEC”) has developed resources to assist students in retaining an attorney to serve as an Advisor at no or low cost to the student. MHEC provides a list of licensed attorneys who have indicated that they may represent students in Title IX proceedings on a pro bono basis or for reduced legal fees.

A student’s attorney may seek reimbursement of certain legal costs and fees from MHEC’s Legal Representation Fund for Title IX Proceedings, subject to the availability of funding. More information is available on MHEC’s website. Student Parties shall be provided notice of their right to assistance by an attorney as an Advisor at the beginning of the investigation and adjudication process and shall be informed of available legal service organizations and referral services.

C. Advisors

If the matter proceeds to a Hearing, all questions must be asked by a Party’s Advisor not by the Parties themselves. If a Party does not have an Advisor and wants to question any witness(es), the College will designate an Advisor of the College’s choosing to question the witness(es) on behalf of the Party. A Party may request that the College provide them with an Advisor at any stage in this process.

D. Investigation Process

1. Investigator

The Title IX Coordinator will designate an individual to conduct the investigation of a Formal Complaint.

2. Notice of Interviews, Meetings or Hearings

The College will send the Parties advance written notice of any investigative interviews, meetings, or hearings at which the Parties are expected to be present.

3. Method of Information Gathering

4. Expert Witnesses

- a. Expert witnesses may be permitted only if:
- b. the Hearing Decision-Maker needs special expertise in order to understand a technical matter, such as relevant forensic evidence;
- c. an understanding of that technical matter is likely to affect the Decision Maker’s finding; and
- d. there is not a more efficient method of obtaining the information necessary to resolve that technical matter.

If an expert witness is retained by a Party, that Party will be responsible for any costs incurred, and the other Party will be allowed to respond to that expert's written or oral testimony. A Party's expert witness must be identified in the investigation phase, unless good cause is shown. Any expert witness must submit to an interview with the Investigator, in part to determine whether the proposed testimony meets the standard set forth above.

The Investigator may gather information in multiple ways. The Investigator may collect relevant documents and other information and may also interview Parties and/or Witnesses. In addition, a Complainant or Respondent may:

- a. submit documentary information to the Investigator;
- b. submit a list of Witnesses to be interviewed by the Investigator; and/or
- c. request that the Investigator attempt to collect documents and other information that are not accessible to the requesting Party.

5. Medical Records

For purposes of these Procedures, the College will not access, consider, disclose, or otherwise use a Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party, unless the College obtains that Party's voluntary, written consent to do so.

5. Past Sexual History

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

6. Disclosure of Information

After the Investigator has concluded the collection of evidence, the Investigator will send the Parties and their Advisors, if any, all evidence directly related to the allegations, including evidence upon which the College does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained by a party or other source, so that the Parties can respond to the evidence. The College shall provide the evidence in electronic format or hard copy, and the parties will have ten (10) Days from receipt of the material to inspect, review, and submit a written response to the evidence.

7. Investigative Report

After the Investigator has received and considered the Parties' responses to the evidence, the Investigator will complete an Investigative Report that fairly summarizes the relevant

evidence. The Title IX Coordinator will make the Investigative Report available to the Parties and their Advisors in electronic format or hard copy, with at least ten (10) Days for the Parties to respond in writing prior to the Hearing.

XVII. HEARINGS

A. Notice of Hearing/Setting of Hearing

The Title IX Coordinator will promptly reach out to all Parties, Witnesses, and the Decision Maker to schedule the Hearing. The Title IX Coordinator will schedule the Hearing based on the availability of the Parties and Witnesses and will notify the Parties in writing of the date, time, and location of the Hearing. The Hearing schedule will take into consideration the academic and other conflicts identified by the Parties. Unless an extension is granted based on a showing of good cause, the Parties are obligated to follow the Hearing schedule.

B. Hearing Process

1. Format of Hearing

Hearings may be conducted with any or all Parties, Witnesses, and other participants appearing at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other, or with all Parties physically present in the same geographic location. The presumption will be that the hearing will take place virtually, unless either Party requests otherwise or the College otherwise determines that an in-person hearing is appropriate. If the hearing takes place with all Parties physically present, the College will provide for the option for the hearing to occur with the Parties located in separate rooms with technology enabling the Decision Maker and Parties to simultaneously see and hear the Party or the Witness answering questions.

2. Recording of the Hearing

Hearings will be recorded through audio or audiovisual means or transcribed, and the College will make the recording or transcript available to the Parties for inspection and review upon request.

3. Role of Advisors

If a Party does not have an Advisor present at the hearing, the College will provide without fee or charge to that Party, an Advisor of the College's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that Party. The Advisor must at all times follow the instructions of the Decision Maker, including abiding by all relevance and evidentiary determinations made. The Advisor must conduct themselves in a professional and courteous manner and may not badger or harass any Witness or Party.

4. Role of the Decision Maker

The Decision Maker will preside over the hearing and will issue the written determination regarding responsibility. The Decision Maker will be identified to the Parties at least three (3) Days prior to the hearing. Additionally, no person who has a conflict of interest may serve as the Decision Maker. A conflict of interest exists if the Decision Maker has prior involvement in or knowledge of the allegations at issue in the case, has a personal relationship with one of the Parties or Witnesses, or has some other source of bias.

Either Party may assert, in writing, that a Decision Maker has a conflict of interest. A request to recuse a Decision Maker based on a conflict must be submitted within 1 business day's receipt of the name of the Decision Maker.

The request is submitted to the Title IX Coordinator. A determination will be made whether a Decision Maker has a conflict of interest, and if so that the Decision Maker will be replaced by an alternate. At the Hearing, the Decision Maker will:

5. Cross-examination

At the hearing, the Decision Maker will permit each Party's Advisor to ask the other Party and any Witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the Hearing must be conducted directly, orally, and in real-time by the Party's Advisor of choice and never by a Party personally. The Parties may, however, jointly agree in advance to waive oral cross-examination and instead submit written cross-examination to the Decision Maker to conduct the examination.

The Decision Maker will also ensure Advisors are conducting any live cross-examination in a professional and courteous manner. The Decision Maker will not permit the Advisors to badger or harass Witnesses or Parties.

6. Evidentiary Decisions

Only relevant cross-examination and other questions may be asked of a Party or Witness. Before a Complainant, Respondent, or Witness answers a cross-examination or other question, the Decision Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

During the Hearing, Parties, Advisors, and Witnesses must comply with the evidentiary decisions made by the Decision Maker. Objections to the inclusion or exclusion of evidence cannot be the basis for appeals unless they were made through the evidentiary review process before the hearing. The standard for review of evidentiary decisions on appeal will be whether the evidentiary decision was clearly erroneous and substantially affected the Decision Maker's decision to the detriment of the appealing Party.

a. Provide Rape Shield Protections for Complainants

Decision Maker will prohibit any questions and evidence about the Complainant's sexual predisposition or prior sexual behavior as not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

b.

7. Hearing Process

Hearings will proceed according to the following steps:

- a. Decision Maker begins the recording after notifying all individuals present.
- b. Decision Maker summarizes allegation(s) and procedural steps of the investigation.
- c. Decision Maker will review the questioning procedure, which shall be:
 - i. Questioning of Investigator by Decision Maker and by Complainant's Advisor and Respondent's Advisor (no particular order)
 - ii. Questioning of Complainant by Decision Maker, Complainant's Advisor, and Respondent's Advisor
 - iii. Questioning of Complainant's Witnesses by Decision Maker, Complainant's Advisor, and Respondent's Advisor
 - iv. Questioning of Respondent by Decision Maker, and Respondent's Advisor, and Complainant's Advisor
 - v. Questioning of Respondent's Witnesses by Decision Maker, and Respondent's Advisor, and Complainant's Advisor
- d. Complainant reads their opening statement, where applicable.
- e. Respondent reads their opening statement, where applicable.
- f. Questioning and Cross-Examination of Parties, Witnesses, and experts (if any)
- g. Decision Maker concludes the hearing, informs Parties of next steps, and stops the recording.

8. Written Determination Regarding Responsibility

The Decision Maker shall issue a written determination regarding responsibility, applying the preponderance of the evidence standard (i.e., more likely than not), which shall include:

- a. Identification of the allegations of Prohibited Conduct;
- 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;

- d. Conclusions about whether the alleged Prohibited Conduct occurred, applying the definitions set forth in these Procedures to the facts and using the preponderance of the evidence standard;
- e. The rationale for the result as to each allegation;
- f. Any Sanctions imposed on the Respondent;
- g. Whether Remedies or Supportive Measures will be provided to the Complainant; and
- h. Information about how to file an Appeal.

The Title IX Coordinator will cause the Written Determination Regarding Responsibility to be sent to both Parties simultaneously.

XVIII. SANCTIONS

Every violation of BCCC policies and procedures is a serious matter and requires an appropriate sanction issued after individualized review. The Decision Maker will decide on the Sanctions as the Decision Maker deems appropriate for the particular case.

For employees, violations of these Procedures and associated Policy range from warnings to termination/separation from the College.

For students, Sanctions range from warnings up to and including separation from the College (suspension or dismissal), and may be accompanied by educational sanctions, interventions, restorative sanctions, bans, restrictions, deactivations and loss of privileges, depending on the nature and severity of the incident, institutional sanctioning guidelines, the student's previous disciplinary history, the impact of the student's behavior, and mitigating and/or aggravating circumstances.

The Decision Maker must impose Sanctions that reflect the seriousness of the incident and the harm caused to the Complainant and, as relevant, the BCCC community.

The Decision Maker may consult with the Title IX Coordinator or other appropriate BCCC offices in crafting Sanctions.

The Title IX Coordinator will be responsible for implementing the Supportive Measures and/or Remedies, including the continuation of any supportive measures and/or any additional or on-going accommodations for both Parties.

The Written Determination Regarding Responsibility becomes final:

- A. if an appeal is not filed, the date on which an appeal would no longer be considered timely; or
- B. if an appeal is filed, on the date that the College provides the Parties with the written determination of the result of the appeal.

XIX. APPEALS

A. Submission of Appeal

Appeals may be submitted by a Complainant or Respondent in writing to the Title IX Coordinator, who will forward the appeal to a designated and trained Appeal Decision Maker to decide the appeal.

Each Party may submit a written appeal of up to 3,000 words in length, which will be shared with the other Party. The Parties must submit the appeal within ten (10) Days from the receipt of the Written Determination Regarding Responsibility.

The consideration of whether Remedies and Sanctions go into immediate effect or are held in abeyance pending appeal or some combination thereof, will be determined on a case-by-case basis by the Title IX Coordinator.

B. Grounds for Appeals

The grounds for appeal are limited to the following:

1. A procedural irregularity that affected the outcome of the matter.
2. New evidence that was not reasonably available at the time of the dismissal of a Formal Complaint, the dismissal of allegations within a Formal Complaint, or the Final Determination that could affect the outcome of the matter.
3. An allegation that an official involved in the investigation or hearing (e.g. the Title IX Coordinator, an Investigator, the Decision Maker, or Appeal Decision Maker) has a conflict of interest or bias for or against Reporting Parties or Respondents in general or against the Reporting Party or Respondent involved in the matter specifically and that conflict of interest or bias affected the outcome of the matter.
4. That the sanction imposed within a Final Determination of Responsibility is substantially disproportionate to the underlying conduct.

Appeals or portions of appeal relying on any other basis will be dismissed without review.

C. Formatting Appeals

In composing appeals, Parties should format their arguments following these four grounds as the organizational structure. Each Party may submit a response to the other Party's appeal (no more than 3,000 words). Each Party must submit this response by the date determined by the Title IX Coordinator, generally ten (10) Days after the other Party's appeal has been shared. The appealing Party will have access to the other Party's response to the appeal, but no further responses will be permitted.

D. Appeal Decision

The Appeal Decision Maker will provide the Notice of Outcome of Appeal no later than ten (10) Days after receipt of all appeal documents. The Title IX Coordinator will cause the Notice of Outcome of Appeal to be sent to the Parties simultaneously.

The Appeal Decision Maker may:

- a) affirm the designation or written determination;
- b) overturn the designation or written determination; or
- c) remand the case to remedy procedural errors or to consider new evidence

If an Appeals Officer denies the appeal, the decision being appealed shall stand. A party has no further rights to appeal or challenge the outcome of the matter.