

**CHANCELLOR'S PROCEDURES FOR POLICY 800.02  
COMPLAINTS OF NON-HARASSMENT TITLE IX DISCRIMINATION**

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**A. Policy Statement**

**INSERT NAME** Community (or Technical) College (the “College”) is committed to creating and maintaining a learning and working environment that is free from unlawful discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in education programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act, the Jeanne Clery Campus Safety Act, and the Violence Against Women Act (VAWA). Sex discrimination and retaliation under these Procedures will not be tolerated by the College and is grounds for disciplinary action, up to and including, permanent dismissal from the College and/or termination of employment.

**B. Purpose**

The College takes all reported sex discrimination seriously. The College will promptly take action against any individuals within its control who are found responsible for violating these Procedures.

**C. Application of these Procedures**

These Procedures apply to complaints of sex discrimination covered under Title IX, but which do not fall within the category of sexual harassment as defined in the Grievance Procedures for Complaints of Title IX Sexual Harassment. These Procedures also apply to any complaints of retaliation as defined by the Grievance Procedures for Complaints of Title IX Sexual Harassment **[INSERT LINK TO PROCEDURES HERE]**.

Discrimination prohibited under this policy includes: the exclusion from participation in, denial of the benefits from, or subjection to unfavorable treatment in any College education program or activity on the basis of sex, including sexual orientation or gender identity.

These Procedures are the exclusive means of resolving complaints of alleged violations of Title IX involving complaints of non-harassment Title IX discrimination brought against College faculty, staff, employees, and students. To the extent there are any inconsistencies between these procedures and other College grievance, complaint, or discipline procedures, these complaint resolution procedures will control the resolution of complaints alleging non-harassment Title IX discrimination.

#### D. Title IX Coordinator

The College's Title IX Coordinator is the person designated by the College who is responsible for coordinating the College's compliance with its obligations under Title IX. The Title IX Coordinator is responsible for the administrative response to complaints of sex discrimination. The Title IX Coordinator is available to discuss the grievance process, coordinate supportive measures, explain the College's policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Assistant Title IX Coordinators to facilitate any of these responsibilities.

Any member of the College's community may contact the Title IX Coordinator with questions. The Title IX Coordinator and Assistant Title IX Coordinator(s) contact information is as follows:

**INSERT NAME, TITLE, ADDRESS, PHONE, EMAIL OF TITLE IX COORDINATOR AND ASSISTANT TITLE IX COORDINATOR(S)**

In addition to the Title IX Coordinator and Assistant Title IX Coordinator(s), the Title IX staff may include Investigators, Appellate Decisionmakers, Advisors, if applicable, and Informal Resolution Facilitators who have roles in the formal grievance process, which are detailed in this Procedure.

The Title IX Coordinator, Assistant Title IX Coordinator(s), Investigators, Appellate Decisionmakers, Advisors, if applicable, and Informal Resolution Facilitators will receive annual training in compliance with Title IX. All administrators in these roles will not rely on sex stereotypes and will provide impartial investigations and adjudications of complaints of sex discrimination. All materials used to train these administrators will be available upon request for inspection by members of the public in accordance with Title IX regulations.

##### Conflict of Interest

The Title IX Coordinator, Assistant Title IX Coordinator(s), Investigators, Appellate Decisionmakers, and Informal Resolution Facilitators shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. Whether bias exists requires examination of the particular facts of a situation. A determination of bias must be based on an objective evaluation of the available facts (i.e., whether a reasonable person would believe bias exists).

Any person exercising investigative or decision-making authority under these Procedures who believes they may have a potential conflict of interest or bias that would prevent them from impartially exercising their authority, must disclose the potential conflict/bias to the Title IX Coordinator as soon as practicable after it is discovered. Arrangements will then be made to designate a conflict/bias free alternative in the case at issue.

If the Complainant or the Respondent believes the Title IX Coordinator has a conflict of interest or bias, such objection should be made to the **INSERT POSITION/TITLE HERE** as soon as practicable after the potential conflict or bias is discovered. If the **INSERT POSITION/TITLE HERE** determines that the objection is reasonable, the Title IX Coordinator will be replaced with a conflict/bias free Assistant Title IX Coordinator.

If the objection as to a conflict or bias is made with respect to an Investigator, such objection should be reported to the Title IX Coordinator as soon as practicable after the potential conflict or bias is discovered. If the Title IX Coordinator determines that the objection is reasonable, the Investigator will be replaced with a conflict/bias free alternative Investigator.

If the objection as to a conflict or bias is made with respect to an Appellate Decisionmaker, such objection must be reported to the Title IX Coordinator before the appeal decision. If the Title IX Coordinator determines that the objection is reasonable, the challenged person will be replaced with a conflict/bias free Appellate Decisionmaker.

The decision of the Title IX Coordinator or **INSERT POSITION/TITLE HERE** (in objections to the Title IX Coordinator), regarding an objection will be final.

Knowledge of or acquaintance with the Complainant, Respondent, or witnesses in a matter; awareness of a matter; participation as a consequence of one's official role in events surrounding a matter; and/or participation in the investigation process prior to the formal disciplinary process does not automatically result in the finding of a disqualifying conflict; however, such factors may be considered in determining whether a conflict exists.

The mere fact that a certain number of findings under these Procedures result in determinations of responsibility, or non-responsibility, does not necessarily indicate or imply bias on the part of Title IX personnel.

## **E. Definitions**

*Business Day:* any weekday not designated by the College as a holiday or administrative closure day. When calculating a time period of business days specified in these Procedures, the business day of the event that triggers a time period is excluded

*Complainant:* An individual who is alleged to be the victim of conduct that could constitute sex discrimination

*Complaint:* a written request to the College that objectively can be understood as a request for the College to investigate and make a determination about alleged discrimination under Title IX or its regulations.

*Confidential Employee:* an individual identified by the institution who will not report any information about an incident to the Title IX Coordinator without the Complainant's permission. **[INSERT ONLY IF YOUR COLLEGE HAS CONFIDENTIAL EMPLOYEE(S); LIST THOSE POSITIONS/TITLES HERE]**

*Consent:* must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

*Disciplinary Sanctions:* consequences imposed on a Respondent following a determination under Title IX that the Respondent violated the College's prohibition on sex discrimination

*Education Program or Activity:* locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the conduct occurred, circumstances where the College has disciplinary authority and to misconduct occurring on College property, during any College activity, or in any building owned or controlled by the College or by a student organization that is officially recognized by the College

*Incapacitation:* An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily

consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

*Official with Authority:* an individual who has the authority to institute corrective measures and is required to report sex discrimination, including sex-based harassment to the Title IX Coordinator to initiate the College's response to the sex discrimination and sex-based harassment allegations. The College's Officials with Authority include the following positions at the College: Title IX Coordinator and Assistant Title IX Coordinator(s); President of the College, all Vice Presidents/Deans [INSERT ANY OTHER POSITIONS/TITLES WHO WOULD CONSTITUTE OFFICIALS WITH AUTHORITY AT YOUR INSTITUTION]

*Party:* a Complainant or Respondent

*Relevant:* related to the allegations of sex discrimination under investigation as part of the grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a Decisionmaker in determining whether the alleged sex discrimination occurred

*Remedies:* measures provided, as appropriate, to a Complainant or any other person the College identifies as having had their equal access to the College's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the College's education program or activity after a College determines that sex discrimination occurred.

*Respondent:* a person who is alleged to have violated the College's prohibition on sex discrimination

*Responsible Reporting Official:* any individual who is employed by the College and not deemed to be a Confidential Employee or Official with Authority. Responsible Reporting Official are mandated by the College to report sex discrimination, including sex-based harassment to the Title IX Coordinator promptly upon receiving a report.

*Retaliation:* intimidation, threats, coercion, or discrimination against any person by the College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing, including in an informal resolution process, grievance procedures, and in any other actions taken by a College, under the Title IX regulations.

Nothing in this definition precludes a College from requiring an employee or other person authorized by a College to provide aid, benefit, or service under the College's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing.

*Student:* a person who has gained admission

*Supportive Measures:* individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

- (1) Restore or preserve that party's access to the College's education program or activity, including measures that are designed to protect the safety of the parties or the College's educational environment; or

- (2) Provide support during the College's grievance procedures or during the informal resolution process.

## **F. Prohibited Conduct**

Under Title IX, Prohibited Conduct includes sex discrimination as defined below.

To the extent that federal or state laws addressing conduct that could be deemed Prohibited Conduct are created or amended, engaging in such conduct shall be considered a violation of this Policy even if the definitions below have not been updated to reflect the most recent additions to or changes in law.

Sex Discrimination: the exclusion from participation in, denial of benefits from, or subjection to unfavorable treatment in any educational or employment-related program or activity on the basis of sex, gender, sexual orientation, or gender identity. The discrimination can be based in whole or in part, upon the individual's actual or perceived protected characteristic.

## **G. Reporting Procedures**

A report of sex discrimination can be made to the persons below in person (during business hours) or by mail, telephone, or by email using the contact information below at any time, including during non-business hours. A report of sex discrimination can also be made by completing the online reporting form at [\[INCLUDE LINK TO ONLINE REPORTING FORM, IF APPLICABLE\]](#).

- (1) Reporting to the Title IX Coordinator: Reports of sex discrimination may be made to the Title IX Coordinator in any of the following ways, by anyone, at any time: email, phone, online form, mail. Reports may be made to the Title IX Coordinator in person at [LOCATION OF TITLE IX OFFICE](#). After an incident of sex discrimination has been reported to the Title IX Coordinator, the Title IX Coordinator will promptly offer supportive measures to the Complainant, regardless of whether the Complainant was the reporter of the sex discrimination.
- (2) Reporting to Officials with Authority: If Officials with Authority are notified of sex discrimination, they shall promptly report such sex discrimination to the Title IX Coordinator who will take immediate action under this Procedure. The College's Officials with Authority include the following positions at the College: Title IX Coordinator and Assistant Title IX Coordinator(s); President of the College, all Vice Presidents/Deans [\[INSERT ANY OTHER POSITIONS/TITLES WHO WOULD CONSTITUTE OFFICIALS WITH AUTHORITY AT YOUR INSTITUTION\]](#).
- (3) Reporting to Responsible Reporting Officials: College employees who are not Confidential Employees or Officials with Authority are mandated by the College to report alleged sex discrimination to the Title IX Coordinator promptly upon receiving a report of sex discrimination.
- (4) Reporting to Confidential Employees: Reports of sex discrimination made to Confidential Employees are considered confidential reports and will not be reported to the Title IX Coordinator without the Complainant's permission and will not constitute actual notice to the College. The College's Confidential Employees include the following positions at the College: [\[INSERT ANY POSITIONS/TITLES WHO WOULD CONSTITUTE CONFIDENTIAL EMPLOYEES AT YOUR INSTITUTION\]](#). [\[ONLY INCLUDE IF COLLEGE HAS A CONFIDENTIAL EMPLOYEE\]](#)
- (5) Anonymous Reporting: Anonymous reports may be made by telephone, in writing or electronically to the Title IX Coordinator. A decision to remain anonymous, however, may greatly limit the College's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating these Procedures.

- (6) Reporting to Local Law Enforcement: Reports of sex discrimination may be filed with local law enforcement agencies. The Title IX Coordinator can assist with contacting law enforcement agencies. Law enforcement investigations are separate and distinct from the College's investigations.

Mandatory Reporting under Alabama Law: Alabama law imposes a mandatory duty on all College employees to immediately report all incidences of known or suspected child abuse. Such reports must be made to the College's Safety & Security Department. The College also encourages students, volunteers, and representatives (as well as third-party vendors and their employees, representatives, or volunteers that contract for use of College facilities with responsibilities that involve interaction with children) to report (verbally and in writing) known or suspected child abuse to the College's Safety & Security Department. Sexual abuse is one element of the more comprehensive term "abuse" under Alabama law. For child protection purposes, a child is any person under 18 years of age or any individual under 19 years of age who is in need of protective services and does not qualify for adult protective services under Chapter 9 of Title 38 in Alabama Law. A freshman student, a "dual enrolled" high school student, or a summer camp participant, among others, may fall into the category of a "child."

#### Consolidation of Complaints

The College may consolidate complaints of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one Complainant or more than one Respondent is involved, references below to a party, Complainant, or Respondent include the plural, as applicable.

The College will not consolidate complaints if consolidation would violate the Family Educational Rights and Privacy Act (FERPA). Consolidation would not violate FERPA when the College obtains prior written consent from parties to the disclosure of their educational records.

#### Amnesty for Students

The College strongly encourages students to report incidents violating the policy related to discrimination, harassment, and related inappropriate conduct. The College's primary concern is the safety of the members of the college community, and it encourages behavior that demonstrates care and concern for members of the community. Accordingly, the College reserves the right to provide a reprieve from disciplinary actions for Complainants and other individuals who exhibit responsible and proactive behavior in reporting sex discrimination or other prohibited conduct or for students acting as a witness during the formal grievance procedures. The College may provide referrals to counseling and may require educational options, rather than disciplinary sanctions, in such cases.

#### Allegations Related to Culture

Allegations related to a culture of sexual harassment or non-harassment sex discrimination by a group, organization, department, division, or the College as a whole will be investigated and resolved as closely as possible to these Procedures. Resolutions for a group, organization, division or the College will be communicated with the highest ranking member of the group, organization, department, division or the College.

### **H. Supportive Measures**

The College will offer and coordinate supportive measures as appropriate for the Complainant and/or Respondent to restore or preserve that person's access to the College's education program or activity or provide support during the College's Title IX grievance procedures or during the informal resolution process. For complaints of sex discrimination, these supportive measures may include but are not limited to: counseling; extensions of deadlines

and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex discrimination. Complainants are eligible for supportive measures at the time their identity is known to the Title IX Coordinator. Respondents are eligible for supportive measures at the time that notice of an alleged complaint has been given.

Supportive measures cannot unreasonably burden either party and must be designed to protect the safety of the parties or the College's educational environment, or to provide support during the College's grievance procedures or during the informal resolution process. The College will not impose such measures for punitive or disciplinary reasons.

The College may, as appropriate, modify or terminate supportive measures at the conclusion of the grievance procedures or at the conclusion of the informal resolution process or the College may continue them beyond that point.

The College will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity.

If the party is a student with disabilities, The Title IX Coordinator may consult, as appropriate, with the individual or office that the College has designated to provide support to students with disabilities to determine how to comply with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, in the implementation of supportive measures.

#### **I. Emergency Removals and Administrative Leave**

The College may remove a Respondent from the College's education program or activity on an emergency basis, provided that the College undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

The College may place a student employee Respondent on administrative leave from employment responsibilities during the pendency of the College's grievance procedures.

Any challenges to an emergency removal should be sent to the Title IX Coordinator in writing within three (3) business days of the notification to the Respondent of the emergency removal. The Respondent should state the reasons for the challenge and any supporting documentation. The Title IX Coordinator will forward all documentation to **INSERT POSITION/ROLE** to render a decision within three (3) business days. The **INSERT POSITION/ROLE** will notify both parties in writing of the decision.

#### **J. Initial Evaluation**

When a report has been made, the Title IX Coordinator will contact the Complainant for an initial discussion to provide information of their rights and options, availability of supportive measures, consideration of the Complainant's wishes with respect to supportive measures, explanation of the policy and grievance procedures.

## K. Complaint Investigation

The College will treat Complainants and Respondents equitably.

Complainants and Respondents may be accompanied by one (1) Advisor of their choice throughout the investigation. An Advisor's role is limited to assisting, advising, and/ or supporting a Complainant or Respondent. An Advisor is not permitted to speak for or on behalf of a Complainant or Respondent or appear in lieu of a Complainant or Respondent.

- Both parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available. However, the College has the right to remove any advisor who does not adhere to the College's policies and procedures.
- The College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford an attorney, the College is not obligated to provide an attorney to advise that party.
- If a party requests that all communication be made through their attorney Advisor instead of to the party, the College will agree to copy both the party and their Advisor on all communications.
- Advisors should help the parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of the party unless given specific permission to do so.
- The parties are expected to ask and respond to questions on their own behalf throughout the grievance process. Although the Advisor generally may not speak on behalf of the party, the Advisor may consult with the party, either privately as needed, or by conferring or passing notes during any meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

It is the goal of the College to complete investigations in a prompt timeframe. Any timeframes or deadlines may be extended when necessary to ensure the integrity and completeness of the investigation, comply with a request by external law enforcement, accommodate the availability of parties and/or witnesses, account for College breaks or vacations, and the complexity of the investigation or severity and extent of the alleged conduct.

The Title IX Coordinator will notify both parties in writing of any College delays.

If a Complainant or Respondent shall request a delay in the investigation or extension of any timeframes, the party must notify the Title IX Coordinator in writing as soon as practicable stating the requested new timeframe and reason for the delay or extension. The Title IX Coordinator will notify the party in writing of the denial or both parties in writing of the approval within three (3) business days of notification of the request. Any delays or extension will apply equally to both parties.

All requests will be on a case-by-case basis for good cause.

### Written Notice of Allegations

Upon initiation of this Title IX grievance procedure, the Title IX Coordinator will notify the parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

- (1) The College's Title IX grievance procedures and any informal resolution process;



- (2) Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- (3) Retaliation is prohibited;
- (4) The Respondent is presumed not responsible for the alleged sex discrimination until a determination is made at the conclusion of the grievance procedures.
- (5) The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- (6) If the College becomes aware of any person knowingly making false statements or knowingly submitting false information during these grievance procedures, disciplinary actions may be sought under the College's Code of Conduct or Employee Policy.

If, in the course of an investigation, the College decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the written notice or that are included in a consolidated complaint, the Title IX Coordinator will provide written notice of the additional allegations to the parties.

#### Investigation

The College will provide for adequate, reliable, and impartial investigation of complaints.

The Complainant and Respondent will have an equal opportunity to be heard, identify witnesses, and provide information and evidence. The Investigator will gather additional information and evidence as appropriate, including, but not limited to, social media information, text messages, email messages, videos, and other records. The Investigator has the discretion to determine the relevance of information and witnesses and decide whether information or evidence should be excluded as irrelevant.

### **L. Administrative Action**

#### Determination Whether Sex Discrimination Occurred

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the Investigator will serve as the Decisionmaker and will provide a written report with a recommendation to the Title IX Coordinator on whether sex discrimination occurred.

The Investigator/Decisionmaker will:

- (1) Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. This means that the Investigator/Decisionmaker will decide whether it is more likely than not based upon the available information at the time of the decision, that the Respondent is in violation of the alleged Policy violation(s). The standard of proof requires the Investigator/Decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the Investigator/Decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the Investigator/Decisionmaker will not determine that sex discrimination occurred.
- (2) Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination and any disciplinary sanctions the College will impose on the Respondent, if

applicable, and the procedures and permissible bases for the Complainant and Respondent to appeal, if applicable;

- (3) Not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the Respondent engaged in prohibited sex discrimination.
- (4) If there is a determination that sex discrimination occurred, as appropriate, the Title IX Coordinator will, as appropriate:
  - Coordinate the provision and implementation of remedies to a Complainant and other people the College identifies as having had equal access to the College's education program or activity limited or denied by sex discrimination;
  - Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and
  - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the College's education program or activity.
- (5) Comply with the grievance procedures before the imposition of any disciplinary sanctions against a Respondent; and
- (6) Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

### Sanctions

Factors considered by the Investigator/Decisionmaker when determining sanctions and responsive actions may include, but are not limited to:

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

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

### Student Sanctions

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

- Reprimand
- Required Counseling

- Probation
- Suspension
- Expulsion
- Withholding Diploma
- Revocation of Degree
- Other Actions: In addition to, or in place of, the above sanctions, the College may assign any other sanctions as deemed appropriate.

#### Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an employee who has engaged in sex-based harassment include:

- Verbal or Written Warning
- Performance Improvement Plan/Management Process
- Enhanced Supervision, Observation, or Review
- Required Counseling
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Shift or schedule adjustments
- Reassignment
- Delay of (or referral for delay of) Tenure Track Progress
- Assignment to New Supervisor
- Restriction of Stipends, Research, and/or Professional Development Resources
- Suspension/Administrative Leave with Pay
- Suspension/Administrative Leave without Pay
- Termination
- Other Actions: In addition to or in place of the above sanctions/responsive actions, the College may assign any other responsive actions as deemed appropriate.

#### **M. Appeals**

The College will offer an appeal from a dismissal of a complaint or determination whether sex discrimination occurred on the following bases:

- (1) Procedural irregularity that would change the outcome;
- (2) New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- (3) The Title IX Coordinator, Investigator, Decisionmaker, or Informal Resolution Facilitator had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

(4) Sanctions were disproportionate to the policy violation(s).

If either party wishes to appeal a dismissal of complaint or determination whether sex discrimination occurred, the party must submit an appeal in writing to the Title IX Coordinator in writing within five (5) business days of receiving written notification of the hearing determination. The party requesting the appeal should state the basis for the appeal and any supporting documentation.

If a party appeals a dismissal or determination whether sex discrimination, the Title IX Coordinator will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the Appellate Decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the Appellate Decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Provide the parties a reasonable and equal opportunity to make a statement in support of or challenging the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

The written determination on responsibility and sanctions, if applicable, are postponed until the decision on the appeal is sent to the parties. Supportive measures will remain in place during the appeal period.

The Appellate Decisionmaker will issue a written decision describing the result of the appeal and the rationale for the result which can be one of the following: (1) affirm the determination of the Investigator/Decisionmaker and affirm the disciplinary sanctions and remedies, if applicable (2) affirm the determination of the Investigator/Decisionmaker regarding the Respondent's responsibility and amend the disciplinary sanctions and remedies, if applicable (3) remand the process back to the Investigator/Decisionmaker to remedy any procedural irregularity or consider any new evidence (4) reverse the Investigator/Decisionmaker's determination of the Respondent's responsibility and amend the disciplinary sanctions and remedies, if applicable or (5) affirm or amend the sanctions and/or remedies outlined in the determination.

The Appellate Decisionmaker will notify both parties in writing of their decision within fourteen (14) business days of receipt of the appeal.

The determination regarding responsibility becomes final on the date that the College provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

At the conclusion of the appeals process, employee Respondents will receive all rights, if applicable and if any, which are granted by either their contract or the Alabama Students First Act in the event any disciplinary sanction is proposed.

## **N. Informal Resolution**

In lieu of resolving a complaint through the College's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. Informal resolution does not involve an investigation, adjudication

hearing, or disciplinary action against a Respondent and is not appropriate for all forms of conduct under these Procedures. Both parties must voluntarily agree in writing to participate in the informal resolution process.

The Title IX Coordinator will inform the parties in writing of the informal resolution process it offers. The College will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. Before the initiation of an informal resolution process, the Title IX Coordinator will explain in writing to the parties:

- The allegations;
- The requirements of the informal resolution process;
- That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- What information the College will maintain and whether and how the College could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

Informal resolution will be facilitated by Informal Resolution Facilitators. The time frame for completion of informal resolution may vary, but the College will seek to complete the process within a prompt timeframe.

The College retains the discretion to determine which cases are appropriate for informal resolution. The College may gather information necessary through interviewing individuals and other evidence gathering to determine if the case is appropriate for informal resolution. Factors the College will consider when determining whether a report of Prohibited Conduct is suitable for informal resolution include, but are not limited to, the following:

- The nature of the alleged offense;
- The dynamics of power or control commonly associated with the alleged offense and/or with the parties involved;
- The Respondent's prior known conduct;
- Whether there would be a continuing safety threat to the campus community after resolution of the specific report of Prohibited Conduct;
- Whether multiple parties are involved;
- Whether the resolution proposed is designed to eliminate, prevent, and address the reported Prohibited Conduct; and
- Any other factor deemed relevant by the Title IX Coordinator in the interest of overall campus safety or safety of the parties involved.

Informal resolution may result in the following remedies: establishing supportive measures; conducting targeted or broad-based educational programming or training for relevant individuals or groups; providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; the Respondent is willing to accept responsibility for violating Policy and is willing to agree to actions that will be enforced similarly to sanctions; and any other remedy that can be tailored to the involved individuals to achieve the goals of these Procedures.

Informal resolution may also include restorative principles that are designed to allow a Respondent to accept responsibility for misconduct and acknowledge harm to the Complainant or to the College community. Informal resolution may also include mediation.

Participation in informal resolution is a choice, and either party can request to end this manner of resolution and pursue an investigation at any time, including if informal resolution is unsuccessful at resolving the report. Similarly, a Complainant may request to end an investigation and pursue informal resolution at any time if the Respondent also consents to informal resolution. In addition, either party may request supportive measures regardless of whether any particular course of action is sought.

The College may also decide to proceed with a formal investigation and withdraw its approval for the informal resolution at any time during the process. If additional potential policy violations are revealed during the informal resolution process, the College may withdraw its approval for the process and proceed with a formal investigation or the College, with the consent of the parties, may continue the informal resolution process and resolve the additional potential policy violations.

Information disclosed by any party during the informal resolution process will not be considered during a subsequent investigation or adjudication hearing.

Because the outcome of informal resolution process is mutually developed and agreed upon by the parties, an appeal of the process and its result is not permitted.

#### **O. Confidentiality and Privacy**

The College will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

#### **P. Retaliation**

Neither the College nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or these Procedures or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Procedure.

Alleged acts of Retaliation will be referred to the Title IX Coordinator to be investigated and resolved under the respective Code of Conduct or Employee Policy.

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

Charging an individual with a Code of Conduct/Employee Policy violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute Retaliation prohibited this Procedure.

#### **Q. Freedom of Speech and Academic Freedom**

Freedom of speech and principles of academic freedom are central to the mission of the College. Constitutionally protected expression cannot be considered sex discrimination under these Procedures. To establish a violation of Title IX, the harassment must be subjectively and objectively offensive and so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College's education program or activity.

## **R. Records Retention**

The College will maintain all of the documentation related to reports of sex discrimination, the grievance process, and information resolution process for seven years in accordance with state and federal records laws and requirements. The documentation of all records is private and confidential to the extent possible under law. Student records of the grievance process are disciplinary records under Family Education Rights and Privacy Act (FERPA). Employee records of the grievance process are subject to the Freedom of Information Act (FOIA) and applicable state laws and included in the employee's official employment record.