

## St. Mary's College of Maryland

### Grievance Process to Resolve Complaints of Sex Discrimination

#### I. Applicable Policy

The Grievance Process to Resolve Complaints of Sex Discrimination (the Procedures) apply to all complaints and reports of information received under the Policy on Sex Discrimination (the Policy). These Procedures incorporate all definitions included in the Policy.

When the St. Mary's College of Maryland (the College) has information about conduct which may reasonably constitute Prohibited Conduct, it must take prompt and appropriate action, in accordance with these Procedures, to review the information and protect the Complainant and Campus Community from continued Prohibited Conduct. This obligation applies to Prohibited Conduct covered by the Policy regardless of whether a parallel law enforcement investigation or action is pending, and regardless of whether a complaint is filed. The Title IX Coordinator is responsible for investigating and resolving allegations of Prohibited Conduct. The Title IX Coordinator is not an advocate for any Party in these Procedures.

These Procedures are effective are only applicable to alleged incidents that occur on or after August 1, 2024. For alleged incidents of Sex Discrimination occurring prior to August 1, 2024, the procedures in place at the time of the alleged incident apply. Applicable versions of those procedures are available from the Title IX Coordinator or at <http://www.smcm.edu/title-ix/>

#### II. General Principles

These general principles will apply to all stages of these Procedures:

- A. Right to Advisor.** A Party, at their own election, may be accompanied at any meeting or proceeding under these Procedures by an Advisor. The Party must notify the Title IX Coordinator or Title IX Team in advance. Parties may select an Advisor at any point before the conclusion of the resolution process. Throughout the process, the Title IX Coordinator will communicate and correspond directly with the Parties, not indirectly through an Advisor.
- B. Equitable Treatment.** Complainants and Respondents will be treated equitably by:
  - 1. Providing remedies to a Complainant where a determination of responsibility for Prohibited Conduct has been made against the Respondent, and by using procedures that comply with Title IX when investigating and adjudicating allegations of Prohibited Conduct before the imposition of any sanctions or other actions that are not Supportive Measures against a Respondent;

2. Providing an equal opportunity for the Parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
3. Applying any provisions, rules, or practices used to investigate and adjudicate Complaints under Title IX equally to both Parties.

- C. Objective Evaluation of Evidence.** The College will objectively evaluate all Relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.
- D. No Conflict or Bias.** The Title IX Coordinator, Investigator, or any person designated to facilitate an Informal Resolution process or appeal, will not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
- E. Presumption of Non-Responsibility.** Respondents are presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the process.
- F. Privacy.** College procedures will take reasonable steps to protect the privacy of the Parties and witnesses during the process, provided that steps do not restrict the ability of the Parties to obtain and present evidence, consult with Advisors, or otherwise prepare for or participate in the process.
- G. Extensions of Time.** Reasonable extensions of the time limits provided for in these Procedures will be granted by the Title IX Coordinator on a case-by-case basis. In the event of an extension, written notice will be given to all Parties stating the basis for the delay and the extension period.

### **III. Notification of Information**

Any person may report Prohibited Conduct (whether or not the person reporting is the person alleged to be the subject of conduct that could constitute Prohibited Conduct) to the Title IX Coordinator in person, by telephone, or by email, or by any other reasonable means by using the contact information listed in Section V of the Policy at any time.

Upon receipt of information about conduct which may reasonably constitute Prohibited Conduct from a Complainant, the Title IX Coordinator will provide written acknowledgement of receipt of the report to the Complainant, if known, and include (1) a copy of the Policy and Procedures, (2) options under the resolution process, including how to initiate a Complaint, and (3) Notice of Rights and Responsibilities. The Parties will be informed of available community and campus resources and services; Supportive Measures as specified in Section IX of the Policies; their right

to an Advisor; their right to file a report with law enforcement; and the College prohibition against Retaliation.

#### **IV. Assessment**

The first step of the Initial Assessment will usually be a preliminary meeting between the complainant and the Title IX Coordinator or Deputy. If the report was made by a third party, the Title IX Coordinator or Deputy may meet with the third party to assess the nature of the allegations and the names of the persons involved in the incident.

The purpose of the preliminary meeting is to gain a basic understanding of the nature and circumstances of the report and to provide the complainant with information about resources, procedural options and supportive measures. At the preliminary meeting, the Title IX Coordinator or Deputy will:

- Assess the nature and circumstances of the allegations;
- Address immediate physical safety and emotional well-being needs of the complainant;
- Notify the complainant of the right to contact law enforcement;
- Offer assistance and transportation to the complainant to see medical treatment;
- Inform the complainant of the importance of preservation of evidence;
- Provide the complainant with information about on- and off-campus resources;
- Provide the complainant with information about Supportive Measures (defined below);
- Explain procedural options, including Informal Resolution, if applicable, and Formal Resolution;
- Inform the complainant of their right to have an advisor, advocate, and/or support person present during any meeting throughout the process;
- Assess for pattern evidence or other similar conduct by the respondent; and
- Explain the College's Policy prohibiting retaliation.

During the Initial Assessment, the Title IX Coordinator or Deputy will determine the risk of potential harm to the broader campus community and take steps necessary to address any identified risks. If the report involves allegations of a crime, the Title IX Coordinator or Deputy will report the alleged crime to the Director of Public Safety for inclusion in the College's daily crime log and will assess whether the reported conduct requires issuance of a timely warning under the Clery Act or must be included in the College's annual Clery Report.

The Initial Assessment will proceed to the point where a reasonable assessment of the safety of the complainant and of the campus community can be made. At the conclusion of the Initial Assessment, the Title IX Coordinator or Deputy will determine whether the report falls within the scope of the definition of Prohibited Conduct. If so, the Title IX Coordinator or Deputy will ascertain whether the complainant wishes to initiate a Complaint.

#### **V. Initiation of Complaint**

Upon notification of information about conduct that reasonably may constitute Prohibited Conduct, the Title IX Coordinator will:

- A. Initiate these procedures in response to a Complaint; or
- B. In the absence of a Complaint or the withdrawal of any of the allegations in a Complaint, determine whether to initiate a Complaint in consideration of, at a minimum, the following factors:
  1. Whether the Complainant has requested not to proceed with the Complaint;
  2. The Complainant's reasonable safety concerns regarding initiating a Complaint;
  3. The risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;
  4. The severity of the alleged Prohibited Conduct, including whether the Prohibited Conduct, if established, would require the removal of the Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent recurrence;
  5. The age and relationship of the Parties, including whether the Respondent is an employee;
  6. The scope of the alleged Prohibited Conduct, including information suggesting a pattern, on-going Prohibited Conduct, or if Prohibited Conduct alleged to have impacted multiple individuals;
  7. The availability of evidence to assist an Investigator in determining whether Prohibited Conduct occurred; and
  8. Whether the College could end the alleged Prohibited Conduct and prevent its recurrence without initiating grievance procedures.
- C. If, after considering these and other Relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct, as alleged, prevents the College from ensuring equal access on the basis of sex to its Education Program or Activity, the Title IX Coordinator may initiate a Complaint.
- D. If the Title IX Coordinator initiates a Complaint, the Title IX Coordinator will notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures.
- E. The Title IX Coordinator need not initiate a Complaint or consider the factors outlined above if the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute Prohibited Conduct.

## **VI. Dismissal of Complaints**

- A. The College may dismiss a Complaint for any of the following reasons:
  1. The College is unable to identify the Respondent after taking reasonable steps to do so;

2. The Respondent is not participating in the Education Program or Activity or is not employed by the College;
  3. The Complainant voluntarily withdraws, in writing, any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint on behalf of the College, and the College determines that without the Complainant's withdrawn allegations any conduct that remains would not constitute Prohibited Conduct, if proven.
  4. The College determines that the conduct alleged, if proven, would not constitute Sex Discrimination and/or Other Sexual Misconduct, after taking reasonable steps to clarify the allegations with the Complainant.
- B. Upon dismissal, the College will promptly notify the Complainant of the basis of the dismissal and the opportunity to appeal.
- C. Upon dismissal, if the dismissal occurs after the Respondent has been notified of the allegations, the College will promptly notify the Respondent of the basis of the dismissal and the opportunity to appeal.
- D. If a dismissal is appealed, the College will:
1. Notify the Parties, including providing notice of the allegations to the Respondent if not previously notified.
  2. Implement appeal procedures equally for the Parties;
  3. Ensure that the Appellate Officer has received training and did not participate in the investigation or dismissal;
  4. Provide the Parties a reasonable and equal opportunity to make a statement in support of or challenging the outcome; and
  5. Notify the Parties of the result of the appeal and the basis for the result.
- E. Upon dismissal, the Title IX Coordinator will offer Supportive Measures to Complainant or Respondent, as appropriate.
- F. Upon dismissal, the Title IX Coordinator will take appropriate and prompt steps to ensure that the Prohibited Conduct does not continue or recur.

## **VII. Consolidation of Complaints**

At the discretion of the Title IX Coordinator, Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, may be consolidated where the allegations arise out of the same facts or circumstances.

## **VIII. Informal Resolution Process**

At any time after the initiation of a Complaint but prior to reaching a determination regarding responsibility, the Parties may elect to participate in the informal resolution process. The informal resolution process is not available for Complaints involving allegations of Sexual Assault or Sexual Coercion.

Informal may include mediation, negotiated interventions and remedies, and/or other restorative justice practices. The informal resolution process can include mediation or negotiations with all Parties virtually or in-person or asynchronously through virtual means. The Title IX Coordinator will discuss the possible methods of informal resolution with the Parties and determine by mutual agreement which may be relevant to the circumstances of the individual case.

- A. Election and Voluntary Consent.** The parties can elect to participate in the informal resolution process by notifying the Title IX Coordinator, in writing, of their preference to proceed with informal resolution. Upon notification in writing, the Title IX Coordinator will reach out to the other Party to obtain their consent to proceed with information resolution. The College may not require either party to participate in the informal resolution process nor may it require, as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Complaints of Prohibited Conduct.
- B. Notice.** Upon written consent of both parties to proceed with the Information Resolution Process, the Title IX Coordinator will provide the parties with written notice of:
- a. the requirements of the Informal Resolution process including that at any time prior to the Parties' agreement to a resolution, any Party may withdraw from the Informal Resolution process and initiate grievance procedures;
  - b. that the Parties' agreement to a resolution at the conclusion of the informal resolution process precludes the Parties from initiating or resuming grievance procedures arising from the same allegations; and
  - c. the potential terms that may be requested or offered in an informal resolution agreement, including a notice that the agreement is binding only on the Parties;
  - d. what information will be maintained by the Title IX Office and how the office could disclose such information for use in grievance procedures, if initiated or resumed.
- C. Informal Resolution Facilitator.** The College will not use the same facilitator for Informal Resolution to investigate or decide a matter under the grievance procedures. Any designated facilitator must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
- D. Sanctions and Remedies.** The informal resolution process will not result in any Sanctions set forth under this Policy and Procedures, unless the Parties agree to accept Sanctions and/or appropriate Remedies. If agreed to by the Parties and determined appropriate by the Title IX Coordinator and Facilitator, Sanctions and Remedies may include, but are not limited to:

- a. Increased monitoring, supervision, and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur;
- b. Having an informal discussion with the Respondent;
- c. Facilitating a confidential conversation between the Parties;
- d. Requesting a written apology from the Respondent;
- e. Targeted or broad-based educational programming or training for relevant Parties, individuals, or groups;
- f. Academic or workplace modifications for either Party;
- g. Compliance with a No Contact Order or Denial of Access;
- h. Separation from the College.

**E. Completion of Informal Resolution Process.** When the Parties have consented to implement Sanctions and Remedies, or otherwise agree that the informal resolution process is complete, the facilitator will issue a written informal resolution agreement which states the responsibilities of all Parties after the process.

**F. No Agreement.** In cases where an agreement is not reached and the Title IX Coordinator determines that further action is necessary, or if either Party fails to comply with the terms of the informal resolution agreement, the Title IX Coordinator may reopen the matter and reinstate the informal resolution process (if there is consent from both parties) or refer the matter to the investigation and hearing procedures in Section IX of these Procedures.

**G. Appeals.** Informal resolution agreements are not subject to appeal.

## **IX. Investigation**

**A. Standard of Evidence.** The standard of evidence for a determination of responsibility is “by preponderance of the evidence” for all Complaints under this Policy.

**B. Notice of Investigation.** Upon initiation of a Complaint, the College will provide written notice to known Parties of the following:

1. The investigation and adjudication process;
2. The allegations, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. “Sufficient details” include the identities of the Parties involved in the incident, if known, the allegedly Prohibited Conduct and the dates and locations of the alleged incidents, if known;

3. A statement that Retaliation is prohibited;
4. A statement that the Parties are entitled to equal opportunity to access Relevant and not otherwise Impermissible Evidence or an accurate summary of that evidence. A statement that the Respondent is presumed not responsible until a determination is made;
5. A statement that the Parties will have an opportunity to present Relevant and not otherwise Impermissible Evidence to a trained, impartial Investigator;
6. A statement that an Advisor is permitted, and that the Advisor is not required, but may be, an attorney.
7. A statement that the Respondent is presumed not responsible until a determination is made;
8. Any College policy that prohibits knowingly making false statements or submitting false information during grievance procedures.

In the event the College decides to investigate additional allegations of Prohibited Conduct by the Respondent against the Complainant, the College must provide additional written notice to all Parties who are known.

To the extent the College has reasonable concerns for the safety of any person as a result of the College providing such notice, the College may reasonably delay providing written notice in order to address safety concerns appropriately. Reasonable concerns must be based on an individualized safety and risk analysis and not mere speculation or stereotypes.

**C. Impermissible Evidence.** the College may not elicit, consider, require, rely upon, allow, disclose, or otherwise use any of the following as evidence (Impermissible Evidence), regardless of whether they are Relevant:

1. Information protected under a legally recognized privilege or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
2. Records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the treatment of a party or witness, unless the College obtains that party's or witness's voluntary, written consent to do so.
3. A Student's history of mental health counseling, treatment, or diagnosis, unless the Student consents.
4. Evidence relating to a Complainant's sexual interests or prior sexual conduct, except the following is permitted:



- a. Evidence about the Complainant's prior sexual conduct that is offered to prove that someone other than the Respondent committed the alleged conduct; or
  - b. Evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to alleged Sex-Based Harassment. The fact of prior consensual sexual conduct between Complainant and Respondent does not by itself demonstrate or imply that the Complainant's consent occurred in the events alleged.
5. Evidence relating to a Respondent's prior sexual history with an individual other than a party to the proceedings, except to prove prior sexual misconduct; support a claim that the Respondent has an ulterior motive; or impeach the Respondent's credibility after the Respondent has put their own prior sexual conduct at issue.

**D. Role of the Investigator.** The Title IX Coordinator will designate an Investigator(s) to conduct a prompt, thorough, fair, and impartial investigation and draft an investigation report, to be considered by the Parties and Hearing Officers at the hearing.

**E. Investigation Procedure.** Upon initiating an investigation, the Investigator will undertake the following steps:

1. The Parties may submit evidence (both inculpatory and exculpatory) and the names of witnesses Relevant to the allegations of Prohibited Conduct to the Investigator. The Parties shall submit the evidence via email, or in any other practical form in consideration of the type of evidence.
2. The Investigator will affirmatively investigate the allegations of Prohibited Conduct and seek additional evidence and witnesses not provided by the Parties.
3. The Investigator will interview all Parties and Relevant Witnesses.
4. The Investigator will review and consider all Relevant and not otherwise Impermissible Evidence and provide the Parties with an investigation report, which summarizes all evidence including interviews of all Parties and witnesses no later than seven (7) days prior to the live hearing.
5. The Investigator will provide all Parties with all Relevant and not otherwise Impermissible Evidence gathered during the investigation (including Relevant and not otherwise Impermissible Evidence submitted by the Parties) no later than seven (7) days prior to the live hearing.

## **X. Live Hearing**

All Complaints under these Procedures will proceed to a live hearing after the investigation, unless all Parties consent to the informal resolution process set forth in Section VIII of these Procedures.

1. **Live Hearing and Hearing Officers.** A Hearing Officer will conduct the Hearing.

The Hearing Officer must not have a bias for or against Complainants or Respondents generally or the individual Complainant or Respondent in particular. The Parties may raise challenges that a Hearing Officer is biased or has a conflict of interest. The Parties must raise challenges with the Title IX Coordinator within two (2) business days of receiving the hearing notice. The Title IX Coordinator will only remove and replace a Hearing Officer in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.

2. **Hearing Format.** The live hearing may occur in person or via video technology. All hearing formats must allow Parties to simultaneously see and hear a Party or witness while that person is speaking. Alternative arrangements may also be made at the Title IX Coordinator's discretion. The Parties may make a request to the Title IX Coordinator that the Hearing occur in person or via video technology, but they must do so at least three (3) business days prior to the Hearing. The Title IX Coordinator retains discretion to determine whether the Hearing will occur in person or via video technology.

3. **Hearing Recordings.** All Hearings will be recorded. Parties may request a copy of the recording from the Title IX Coordinator following the live hearing.<sup>1</sup> No unauthorized recording or disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted. The College records Hearings (but not deliberations) for purposes of review in the event of an appeal. The Hearing Officer, the Parties, Advisors, Appellate Hearing Officer, and other appropriate College officials will be permitted to review the recording upon request to the Title IX Coordinator.

4. **Hearing Participants.** Persons who may be present for a Hearing include the Hearing Officer, Investigator(s), the Parties and their Advisors and Support Persons, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Hearing Officer.

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<sup>1</sup> Hearings are generally recorded by audio and may include video. If the hearing occurs virtually, an auto-generated transcript may be provided upon request of any Party. There will be no "official" transcript of the proceedings by a licensed court reporter. If any Party has a disability-related need for a certain method of recording, that Party should contact the Title IX Coordinator prior to the hearing in order to request these services in advance, pursuant to Section X.5. of these Procedures.

Witnesses may be present only during their testimony. If any Party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Title IX Coordinator may reschedule the hearing. Parties and Advisors may choose to bring phones, laptops, or tablets to the hearing, and all devices must be used consistent with this Policy.

**Advisors and Support Persons.** The Parties may have the assistance of one (1) Advisor and one (1) Support Person of their choosing at the Hearing. A party may choose an attorney as their Advisor. No Advisors, including attorney-Advisors, will be paid for, prearranged or otherwise provided by the College. An Advisor or a Support Person may not be called as a witness at a Hearing to testify to what their advisee has told them during their role as an Advisor or Support Person. During the pre-hearing meeting and live hearing, Parties may only be accompanied by their Advisor and Support Person. No other persons (e.g., additional Support Persons, Advisors, friends, family) may accompany, attend, or listen in on the Hearing unless explicitly authorized by the Title IX Coordinator, with each party being provided the same opportunity.

5. **Disability Accommodations and Other Assistance.** Parties should contact the Title IX Coordinator at least three (3) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the Hearing.
6. **Evidence.** The Hearing Officer will be provided electronic copies of the investigation report and all relevant but not Impermissible Evidence, including the names of all Parties, witnesses, and Advisors and Support Persons, in advance of the Hearing. The Parties will be provided with electronic copies of all the materials provided to the Hearing Officers as part of the hearing notice, unless those materials have already been provided.
7. **Hearing Notice.** The Title IX Coordinator will send the Parties a Notice of Hearing with sufficient time for the Parties to prepare for the hearing, generally at least five (5) business days prior to the hearing. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The hearing notice will include:
  - a. A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
  - b. The time, date, and location of the Hearing.
  - c. A description of any technology that will be used to facilitate the Hearing.

- d. Instructions on how to submit questions to be asked of any party or witness in advance of the hearing.
  - e. Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the identity of the Hearing Officer, details related to questioning, the role of Advisors and Support Persons, impact/mitigation statements, and how to request disability accommodations or other assistance.
8. **Joint Hearings.** In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or Hearings pertinent to each Respondent or Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Complaint with respect to each alleged Policy violation.

9. **Witness Participation.** Witnesses are encouraged to participate in and make themselves reasonably available for the hearing. Witnesses are not permitted to be accompanied by an Advisor or Support Person. At the discretion of the Hearing Chair, a witness may join by phone if no other reasonable alternative is available.

Any witness scheduled to participate in the hearing must be first interviewed by the Investigator(s), unless:

- a. All Parties and the Hearing Officer assent to the new witness's participation in the Hearing without remanding the Complaint back to the Investigator; and
- b. The Hearing Officer deems the evidence presented by the new witness to be relevant, not impermissible, and not information already established in the record; and
- c. The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.

The Title IX Coordinator will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony. The hearing may proceed in the absence of any Witness if the Witness fails to attend the hearing or if the Witness's testimony is determined by the Investigator to constitute Impermissible Evidence.

The Title IX Coordinator will work with the Hearing Officer and Parties to finalize a witness list for the Hearing, and the Title IX Coordinator will notify any witnesses of the Hearing's logistics.

10. **Hearing Procedures.** Hearings will be generally conducted in the following order unless the Hearing Officer determines good cause exists to alter the order of the proceedings.

- a. **Introductions and Procedure.** The Hearing Officer will explain the hearing procedures and introduce the participants. The Hearing Officer will answer any procedural questions prior to and as they arise throughout the Hearing.
- b. **Opening Statements.** The Complainant may give the first opening statement, if any, followed by the Respondent's.
- c. **Testimony and Questioning.** All questions during the Hearing will be asked by the Hearing Officer. Parties may submit questions to be posed by the Hearing Officer via in advance of the hearing pursuant to the instructions in the Hearing Notice and during the Hearing.

No questions which constitute Impermissible Evidence under these Procedures will be posed. The Hearing Officer will limit or disallow questions they deem inappropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to Impermissible Evidence, or are abusive or harassing in nature. The Hearing Officer may consult with the Title IX Coordinator on any questions of admissibility. The Hearing Officer will explain any decision to exclude a question and Parties and Advisors will be allowed the opportunity to rephrase any excluded question.

The Hearing Officer then poses the questions deemed Relevant and not otherwise Impermissible to the party and/or witness. Parties may submit follow-up questions to the Hearing Officer after the initial testimony of any Party or witness.

- d. **Closing Statements.** Both parties are permitted to give closing statements at the conclusion of all questioning, beginning with the Complainant and ending with the Respondent.
- e. **Deliberation.** The Hearing Officer will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy

violation(s) based on the Preponderance of the Evidence standard of proof. Deliberations are not recorded.

**XI. Written Determination.** At the conclusion of the deliberations after a live hearing, the Hearing Officer will issue a Written Determination to all Parties. The Written Determination will include:

1. A description of the allegations;
2. Information about the policies and procedures used to evaluate the allegations;
3. The Investigator's evaluation of Relevant and not otherwise Impermissible Evidence and determination whether the alleged Prohibited Conduct occurred;
4. If the Hearing Officer finds that the alleged Prohibited Conduct occurred, any disciplinary sanctions that will be imposed and any remedies that will be provided; and
5. The procedures for appeal.

## **XII. Sanctions**

Sanctions for violation of this Policy are imposed based on the on the circumstances and nature of the violation and Complaint. Sanctions may be imposed at the adjudication of an investigation or appeals process. Sanctions for violation of the Policy may include but are not limited to:

- A. **Students.** Possible disciplinary sanctions for students that may be imposed under this Policy include, but are not limited to, warning, restriction, work sanctions, educational sanctions, mandated assessments, disciplinary probation, housing contract revocation, disciplinary suspension, and expulsion.
- B. **Employees.** Possible disciplinary sanctions and remedies for employees, volunteers, and contractors may include, but are not limited to, a letter of reprimand, instructions to draft and send a letter of apology, termination of a contract, demotion, termination of employment, or expulsion from College programs.

## **XIII. Appeal**

**A. Bases for Appeal.** The following are permitted bases for appeal:

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome that was not reasonably available when the determination was made; and

3. The Title IX Coordinator or Investigator 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.
- B. Notice of Appeal.** Either Party may initiate this appeal process. Parties will have five (5) business days from receipt of any dismissal or Written Determination to submit a written appeal statement challenging the decision on the bases above (in Section XIII.A. of these Procedures). The other Party will be notified if one Party seeks appeal, and the written statement for appeal will be provided to the other Party. The other Party will be given five (5) business days from receipt of the other Party's written statement to submit a written appeal statement in support of the dismissal or Final Written Determination.
- C. Review of Appeals.** There will be no hearing. Appeals will be reviewed by an Appellate Officer designated by the Title IX Coordinator. The Appellate Officer shall be free from conflict of interest or bias and shall not be the same person who reached the determination regarding the dismissal or the written determination, the Investigator, or the Title IX Coordinator. The Appellate Officer will have had no previous involvement with the case that the Appellate Officer is assigned to review. The appeal deliberation is closed to the Parties. The Appellate Officer will review only the written statements submitted by all Parties.
- D. Sanctions during Appeal.** Sanctions will be stayed pending the outcome of any appeal process. If a respondent is subject to an emergency removal or administrative leave prior to the conclusion of the Investigation and is suspended, expelled, or terminated as a result of the Investigation, the emergency removal or administrative leave will continue pending the outcome of any appeal.
- E. Written Decision.** The Appellate Officer will issue a written decision including its rationale for the decision within thirty (30) calendar days from the submission of the last written appeal statement, which may be reasonably extended for good cause. One written decision will be issued for a matter, even if both Parties filed appeals. The written decision by the Appellate Officer is final and is not subject to further appeal. In the written decision, the Appellate Officer may: (1) affirm the dismissal or Written Determination; (2) overturn the dismissal or Written Determination; or (3) remand the case to the original Investigator to remedy procedural errors or to consider new evidence.
- F. Final Decision.** After the adjudication process is concluded or when the time for filing an appeal has expired and neither Party has submitted an appeal, the Title IX Coordinator shall notify the Parties simultaneously of the final outcome of the adjudication process. The Written Determination for a violation of the Policy

becomes final either on the date that the College provides the Parties with the written decision of the result of the appeal if an appeal is filed, or if an appeal is not filed, on the date after which an appeal would no longer be considered timely, subject to any remanded proceedings.

#### **XIV. Timeline**

The Title IX Coordinator or Deputy will keep the Parties informed of the status of the College's resolution of the report throughout the process. The Investigators will strive to complete the formal investigation process within 120 days of the Notice of Allegation and Investigation. The College will strive to complete informal resolution agreements within 60 days of the Notice of Allegation. The College will strive to schedule and conduct the hearing within a reasonably prompt time frame after the completion of the investigation.

#### **XV. Conflicts with the Policy and Procedures**

With the exception of the College Bylaws, to the extent that the Policy or these Procedures conflict with any other College policy, procedure, handbook, faculty or employee bylaw, agreement, or process, the Policy and these Procedures shall prevail.

If a Complainant alleges Prohibited Conduct along with alleged violations of other College policies and procedures, including but not limited to the Student Code of Conduct, Employee Handbook, Faculty Bylaws or Faculty Handbook, all allegations will be investigated and adjudicated in accordance with the Policy and these Procedures. The Title IX Coordinator or Deputy may pair an investigator without Title IX training with an investigator with Title IX training to investigate allegations that do not fall within the scope of the Policy.