

## **Discrimination and Harassment Investigation and Resolution Procedures**

Knox College has established a Policy Against Discrimination and Harassment (“Policy”) that articulates the College’s behavioral standards and descriptions of prohibited conduct. These Investigation and Resolution Procedures (the “Procedures”) apply to all suspected or alleged acts of discrimination and harassment **EXCEPT** for Title IX Sexual Harassment (See “Title IX Sexual Harassment Investigation and Resolution Procedures”).

### **I. MAKING A COMPLAINT**

A person may make a Complaint with the Title IX Coordinator requesting that the College investigate and adjudicate Discrimination or Harassment in accordance with the provisions in the Procedures. Provided, however, that the person must (1) meets the definition of Reporting Party/Complainant; (2) be a person who has the legal right to act on a Reporting Party/Complainant’s behalf; (3) be the Title IX Coordinator; or (4) with respect to Complaints of Discrimination or Harassment be a Student or Employee or a third-party who is participating or attempting to participate in the College’s Education Programs or Activities when the alleged Discrimination or Harassment occurred.

Complaints may be made to the Title IX Coordinator in person, by regular mail, or by email or by any other means that results in the Title IX Coordinator receiving the person’s Report. In-person Reports must be made during normal business hours, but Reports can be made by regular mail, telephone, or electronic mail at any time, including outside normal business hours. Reports can be made anonymously via the College’s online system.

In deference to the agency of alleged victims of Discrimination or Harassment, the Title IX Coordinator will exercise the authority to make a Complaint only after careful consideration of multiple factors suggests there is an immediate and serious threat to the health or safety of the Reporting Party/Complainant or other person or where not making a Complaint would prevent the College from maintaining a non-discriminatory environment. Such factors to be considered include: (1) the Reporting Party/Complainant’s request not to proceed with initiation of a complaint; (2) the Reporting Party/Complainant’s reasonable safety concerns regarding initiation of a Complaint; (3) the risk of additional Discrimination or Harassment; (4) the severity of the alleged Discrimination or Harassment, including whether the discrimination, if established, would require the removal of the Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence; (5) the age and relationship of the parties involved; (6) whether the alleged perpetrator is

an Employee; (7) the scope of the alleged Discrimination or Harassment, including information suggesting a pattern, ongoing Discrimination or Harassment, or Discrimination or Harassment alleged to have impacted multiple individuals; (8) the availability of evidence; and (9) whether the College could end the alleged Discrimination or Harassment and prevent its recurrence without initiating the investigation and resolution procedures.

If the Title IX Coordinator makes a Complaint, the Title IX Coordinator will notify the Reporting Party/Complainant prior to doing so and appropriately address reasonable concerns about the Reporting Party/Complainant's safety or the safety of others, including by providing Supportive Measures.

If the Reporting Party/Complainant or the Title IX Coordinator makes a Complaint, the College will commence an investigation as specified in "Investigation" and proceed to adjudicate the matter as specified in "Adjudication," below. In all cases where a Complaint is made, the Reporting Party/Complainant will be treated as a party, irrespective of the party's level of participation.

In a case where the Title IX Coordinator makes a Complaint, the Title IX Coordinator will not act as a Reporting Party/Complainant or otherwise as a party for purposes of the investigation and adjudication processes.

If the Title IX Coordinator elects not to make a Complaint, and no other person makes a Complaint, the Title IX Coordinator will still evaluate the need for and, if appropriate, implement other prompt and effective steps to ensure that Discrimination or Harassment does not continue or recur in the College's Education Programs or Activities and to remedy its effects, if any.

## **II. COUNTER-COMPLAINTS**

The College is obligated to ensure that the grievance process is not abused for retaliatory purposes. Although the College permits the filing of counter-complaints, the Title IX Coordinator will use the Preliminary Assessment, described in Section X of the Policy, to assess whether the allegations in the counterclaim are made in good faith. When counter-complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a Policy violation.

Counter-complaints determined to have been reported in good faith will be processed using the Investigation and Resolution Process below. At the Title IX Coordinator's

discretion, investigation of such claims may take place after resolution of the underlying initial Complaint.

### **III. CONSOLIDATION OF COMPLAINTS**

The College may consolidate Complaints as to allegations of Discrimination or Harassment against more than one Respondent, or by more than one Reporting Party/Complainant against one or more Responding Parties, or by one party against the other party, where the allegations of Discrimination or Harassment arise out of the same facts or circumstances. Where the investigation and adjudication processes involve more than one Reporting Party/Complainant or more than one Respondent, references in this Policy to the singular “party,” “Reporting Party/Complainant,” or “Respondent” include the plural, as applicable. A Complaint of Retaliation may be consolidated with a Complaint of Discrimination or Harassment.

### **IV. DISMISSAL OF COMPLAINT**

Any time after a Complaint is made, the Title IX Coordinator may dismiss it for any of the following reasons:

- The College is unable to identify the Respondent after taking reasonable steps to do so.
- The Respondent is not participating in the College’s Education Programs or Activities and is not employed by the College.
- The Reporting Party/Complainant voluntarily withdraws any or all the allegations in the Complaint, in writing, and the Title IX Coordinator determines that without the withdrawn allegations, the conduct that remains part of the Complaint, if any, would not constitute Discrimination or Harassment even if proven.
- After first taking reasonable efforts to clarify the allegations, the Title IX Coordinator determines that the conduct alleged in the Complaint, even if proven, would not constitute Discrimination or Harassment.

Upon dismissal, the Title IX Coordinator must promptly notify the Reporting Party/Complainant of the dismissal and its basis, in writing. If the dismissal occurs after the Respondent has been notified of the Complaint, the Title IX Coordinator must also simultaneously notify the Respondent of the dismissal and its basis, in writing. The written notice to the Reporting Party/Complainant and/or the Respondent, as applicable must advise the party of their right to appeal the dismissal pursuant to the procedures specified in “Appeal.”

Even when a Complaint is dismissed, the Reporting Party/Complainant and, as applicable, the Respondent, are still eligible for Supportive Measures as set forth in “Supportive Measures,” and the Title IX Coordinator shall evaluate whether to take other prompt and effective steps to ensure that Discrimination or Harassment does not continue in the College’s Education Programs or Activities.

## **V. NOTICE OF COMPLAINT**

Within five (5) business days of the Title IX Coordinator receiving a Complaint, the Title IX Coordinator will transmit a written notice to the Reporting Party/Complainant and Respondent that includes:

- A full copy of the Policy Against Discrimination and Harassment and these procedures, whether in physical or electronic form.
- Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes the identities of the parties involved in the incident, the conduct alleged to constitute Discrimination or Harassment, and the date and location of the alleged incident, to the extent that information is available to the College.
- A statement that the Respondent is presumed not responsible for the alleged Discrimination or Harassment until an adjudication of responsibility is made final and that the parties will have an opportunity to present relevant evidence to a trained, impartial decision maker prior to such adjudication being made.
- A statement that the party is entitled to receive access to relevant evidence or to an investigative report that accurately summarizes the evidence; if the College provides the party with a summary of the relevant evidence, the parties will have an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.
- Notification to the Reporting Party/Complainant and Respondent of the College’s prohibitions on Retaliation and false statements specified in “Bad Faith Complaints and False Information” and “Retaliation.”
- If the case is one involving Sexual Misconduct, a statement that the party may be accompanied by an advisor of their choice, who may be an attorney, and who is permitted to fulfill the role described in “Advisor of Choice.”

If there are legitimate concerns for the safety of any person because of providing the written notice of Complaint, providing such written notice may be reasonably delayed to address the safety concern appropriately. Safety concerns that would justify delay of

providing the written notice must be based on an individualized safety and risk analysis and not mere speculation or stereotypes. In any event, the written notice of Complaint will be provided to a party in advance of their initial investigative interview such that the party has sufficient time to prepare.

Should the College elect, at any point, to investigate allegations that are materially beyond the scope of the initial written notice, the College will provide a supplemental written notice describing the additional allegations to be investigated.

## **VI. PRESUMPTION OF NON-RESPONSIBILITY**

From the time a Report or Complaint is made, a Respondent is presumed not responsible for the alleged Discrimination or Harassment until an adjudication of responsibility is made final.

## **VII. STANDARD OF PROOF**

The College uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that College will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent has violated College policy.

## **VIII. OPTIONS FOR RESOLUTION**

The College's Resolution Procedures consists of multiple ways to resolve a complaint or report of sex discrimination, as outlined in more detail below.

### **A. INFORMAL RESOLUTION**

To initiate Informal Resolution, a Reporting Party/Complainant or Respondent may make such a request to the Title IX Coordinator at any time prior to a final determination, or the Title IX Coordinator may offer the option to the Parties, verbally or in writing. The College will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

Before initiation of an Informal Resolution process, the College will provide the Parties with a written notice that explains:

- The allegations.
- The requirements of the Informal Resolution process.
- That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume the College's Resolution Process.
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will preclude the Parties from initiating or resuming the Investigation and Resolution Procedures arising from the same allegations.
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties.
- What information the College will maintain, and whether and how it could disclose such information for use in its Investigation and Resolution Procedures

Any party participating in Informal Resolution can withdraw from the Informal Resolution process at any time prior to reaching an Informal Resolution agreement and initiate or resume the Resolution Process.

If an investigation is already underway, the Title IX Coordinator has sole discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

The College offers the following types of Informal Resolution:

### **1. Educational Conversation**

The Reporting Party/Complainant(s) may request that the Title IX Coordinator or designee address their allegations by meeting (with or without the Reporting Party/Complainant(s)) with the Respondent(s) to discuss concerning behavior and institutional policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the Informal Resolution for the matter, if it takes place. In light of this conversation, or the Respondent's decision not to attend, the

Title IX Coordinator or designee may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of the recurrence of any behaviors that may not align with Policy.

## **2. Agreement-Based Resolution**

Agreement-Based Resolution is an alternative where the Parties each voluntarily agree to resolve the complaint in a way that does not include an investigation and does not include any finding of responsibility. Agreement-Based Resolution is a voluntary, structured interaction between or among affected parties that balances support and accountability. If the College offers Agreement-Based Resolution to the parties, and they voluntarily consent to engage in that process, the Title IX Coordinator must still take other prompt and effective steps as needed to ensure that discrimination/harassment/sexual misconduct does not continue or recur within the College's education program or activity.

The Title IX Coordinator must approve of the use of the Agreement-Based Resolution process and approve the final agreement between the parties. Agreement-Based Resolution may be initiated at any time prior to the release of the final determination. Because Agreement-Based Resolution does not involve an investigation, there is not any determination made as to whether a Respondent violated this Policy. The process is described in more detail in Appendix A.

The Title IX Coordinator has the discretion to determine that Agreement-Based Resolution is not an appropriate way to address the reported conduct, and that the matter must instead be resolved through an alternate process.

## **B. ACCEPTANCE OF RESPONSIBILITY**

At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Title IX Coordinator is authorized to accept that admission, adopt it as the final determination, and collaborate with the appropriate sanctioning authority to administer sanctions. A Respondent who accepts responsibility waives their right to appeal. If the Respondent rejects the final determination/sanctions, or does not admit to all conduct charged, the Resolution Process continues to its conclusion. The Reporting

Party/Complainant retains their right to appeal a determination when a Respondent admits responsibility.

## **C. FORMAL RESOLUTION**

The College's Discrimination and Harassment Formal Resolution Process includes the following two investigation and decision-making procedures:

- Procedures covering all prohibited conduct matters **except for** sexual misconduct involving a student as a party; and
- Procedures covering sexual misconduct involving a student as a party.

Only one of the above procedures will apply to a complaint, and will be determined based on the nature of the complaint and the parties involved.

### **1. Investigation Procedures**

The following investigation procedures will be used for formal resolution of all prohibited conduct.

#### **a. Commencement and Timing**

After the written notice of a Complaint is transmitted to the parties, the Title IX Coordinator, or an investigator selected by the Title IX Coordinator, will undertake an investigation to gather evidence relevant to the alleged Discrimination or Harassment, including inculpatory and exculpatory evidence. The burden of gathering evidence sufficient to reach a determination in the adjudication lies with the College and not with the parties. Although the length of each investigation may vary depending on the totality of the circumstances, the College strives to complete each investigation within thirty (30) to forty-five (45) business days of the transmittal of the written notice of the Complaint.

#### **b. Fair Notice and Equal Opportunity**

During the investigation, the investigator will provide advance written notice to a party of the date, time, location, participants, and purpose of all meetings and investigative interviews pertaining to that party, with sufficient time for the party to prepare to participate.



The investigator will provide an equal opportunity for the parties to be interviewed, to identify witnesses and to present other inculpatory and exculpatory evidence.

Notwithstanding the foregoing, the investigator retains discretion to limit the number of witness interviews the investigator conducts if the investigator finds that testimony would be unreasonably cumulative, if the witnesses are offered solely as character references and do not have information relevant to the allegations at issue, or if the witnesses are offered to render testimony that is categorically inadmissible under “Inadmissible Evidence and Impermissible Questioning.” The investigator will not restrict the ability of the parties to gather and present relevant evidence on their own.

The investigation is a party’s opportunity to present testimonial and other evidence that the party believes is Relevant to the allegations in the Complaint. A party who is aware of and has a reasonable opportunity to present particular evidence and/or identify particular witnesses during the investigation, and elects not to, will be prohibited from introducing any such evidence during the adjudication absent a showing of mistake, inadvertence, surprise, or excusable neglect.

**c. Documentation of Investigation**

The investigator will take reasonable steps to ensure the investigation is documented. Interviews of the parties and witnesses may be documented by the investigator’s notes, audio recorded, video recorded, or transcribed. The particular method utilized to record the interviews of parties and witnesses will be determined by the investigator in the investigator’s sole discretion, although whatever method is chosen shall be used consistently throughout a particular investigation, to the extent possible.

**2. Investigation Report & Decision-Making Procedures For All Prohibited Conduct EXCEPT Sexual Misconduct Involving A Student Party**

After the evidence-gathering phase of the investigation is completed, the investigator will prepare a written investigation report that summarizes the

investigation and include all the potentially admissible evidence that is relevant to the allegations in the Complaint, including both inculpatory and exculpatory evidence.

If the matter is not resolved informally and there is no acceptance of responsibility by the Respondent, a determination of whether the Policy was violated will be made by the Director of Title IX and Civil Rights Compliance or an assigned decision maker.

The decision maker will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and ensure that any credibility determinations made are not based on a person's status as a Reporting Party/Complainant, Respondent, or witness. The decision maker will take care to exclude from consideration any evidence that the decision-maker determines is inadmissible on the grounds explained in "Inadmissible Evidence and Impermissible Questioning." The decision maker will resolve disputed facts using the preponderance of the evidence standard and reach a determination regarding whether the facts that are supported by a preponderance of the evidence constitute one or more violations of the Policy as alleged in the Complaint. In the event the decision maker determines that the Respondent is responsible for violating this Policy, the decision maker will, prior to issuing a written decision, consult with an appropriate College official with disciplinary authority over the Respondent and such official will determine any sanctions to be imposed.

After reaching a determination the decision maker will prepare a written decision that will contain:

- A description of the alleged prohibited conduct.
- Information about the policies and procedures the College used to evaluate the allegations.
- The decision maker's evaluation of all relevant evidence and determination of whether the prohibited conduct occurred.
- When the decision maker finds that a policy violation occurred, sanctions determined by the appropriate College official and the process and grounds for appeal, as specified in "Appeal" are included.

Transmittal of the written decision to the parties concludes the adjudication process, subject to any right of appeal as specified in "Appeal." Any sanctions imposed will be stayed pending the completion of any appeal. Although the length of time needed to issue the written decision will vary depending on the totality of the circumstances, the College strives to issue the written decision within ten (10) business days of the completion of the investigation.

### **3. Investigation Report & Decision-Making Procedures For Sexual Misconduct Involving A Student Party**

Upon conclusion of the investigation, the Investigator(s) will produce a Preliminary Investigation Report that summarizes and analyzes the allegations, the relevant facts, the Investigator's credibility determinations and rationale for those determinations, and all relevant inculpatory and exculpatory evidence (which may include statements by the parties, third-party witnesses, or others with information and any physical, written, or electronic or other evidence). The Preliminary Investigation Report will be provided to the Title IX Coordinator who will provide it to the Reporting Party/Complainant/Complainant and the Respondent. Each party will have the opportunity to provide in writing to the Investigator and the Title IX Coordinator their comments on the Preliminary Investigation Report.

#### **a. Response to the Preliminary Investigation Report**

A party's written response to the preliminary investigation report must be received within seven (7) business days of receiving the preliminary investigation report. The written response should include:

- To the extent the party wishes to respond to any aspect of the investigation report or evidence, any such response.
- A statement as to whether the party contends the credibility of the other party or any witness is in dispute; if so, how such credibility dispute is relevant in evaluating any of the allegations in the Complaint.
- A list of questions the party contends should be posed to the other party and any witnesses.
- Any argument that a particular piece or class of evidence should be categorically excluded from consideration based on any one or more of the standards specified in "Inadmissible Evidence and Impermissible Questioning."

- Argument regarding whether any of the allegations in the Complaint are supported by a preponderance of the evidence.
- Argument regarding whether any of the allegations in the Complaint constitute Discrimination or Harassment.

While the party may receive assistance in preparing the written response, the written response must be submitted and signed by the party themselves or someone with legal authority to act on their behalf.

**b. The Final Investigation Report**

The Investigator will address any identified factual inaccuracies or misunderstandings reported by either party as appropriate and determine whether to ask any additional questions of either party or any witness. Based on this information, as well as all information gathered during the investigation, the Investigator(s) will prepare a Final Investigation Report that includes:

- The Investigator's credibility determinations.
- A description of the alleged prohibited conduct.
- Information about the policies and procedures the College used to evaluate the allegations.
- Evaluation of all relevant evidence and determination of whether prohibited conduct occurred.

If the complaint presents more than a single allegation of misconduct, a finding will be made separately as to each allegation. The Final Investigation Report will also include the parties' comments to the Preliminary Investigation Report, any appropriate revisions to the Preliminary Investigation Report based on those comments, any additional information gathered by the Investigator based on those comments, any revisions or supplements to the Investigator's credibility assessments based on those comments, and the Investigator's finding(s).

The Final Investigation Report will be provided to the Title IX Coordinator who will provide it to the Reporting Party/Complainant and the Respondent simultaneously /contemporaneously to the greatest extent possible.

**c. Sanctioning**

If the Investigator finds based on a preponderance of the evidence that the Respondent is responsible for a violation of the Policy, the Final Investigation Report will be forwarded to the appropriate College official for determination of sanction. Both parties will then be afforded the opportunity to provide any additional written comments and statements as to the impact of the Investigator's finding for consideration by the appropriate College official who will be assigning the sanction.

These comments and statements must be submitted in writing to the sanctioning officer within seven (7) business days of receipt of the Final Investigation Report.

- When the Respondent is a student who has been found responsible for a violation of College Policy, the Dean of Students or designee will determine the appropriate sanction and any other corrective actions.
- When the Respondent is a faculty member who has been found responsible for a violation of College Policy, the Dean of the College or designee will determine the appropriate sanction and any other corrective actions, unless a different process is required under the Faculty Handbook then in effect.
- When the Respondent is a staff member who has been found responsible for a violation of College Policy, the Associate Vice President of Human Resources or designee will determine the appropriate sanction and any other corrective actions, unless a different process is required under any applicable collective bargaining agreement.

Upon reviewing the Final Investigation Report and any additional comments or statements submitted by either party, the sanctioning official will determine what, if any, sanctions, remedies, or corrective actions will be imposed or implemented and will notify each party, contemporaneously/simultaneously (to the greatest extent possible) of any sanctions or other corrective actions in writing, as well as the rationale for the sanctions or other corrective actions, to the extent permitted or required by law. Each party will be notified in writing of

the decision regarding sanctions and any other corrective actions, including information regarding appeal rights, within seven (7) business days of the referral of the Report to the sanctioning official, unless the sanctioning official determines that additional time is required. This notification shall be issued simultaneously to both parties to the extent practicable. The sanctioning official will also provide a copy of the decision regarding sanctions and any other corrective actions to the Title IX Coordinator.

## **IX. INADMISSIBLE EVIDENCE AND IMPERMISSIBLE QUESTIONING**

During the investigation and adjudication processes, questioning and evidence of the following subject matters are inadmissible and impermissible:

- Evidence that is protected under a privilege as recognized by federal, state, or local law, 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.
- A party's records that are maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party, unless the College obtains that party's voluntary, written consent for use in the College's investigation and adjudication process.
- The Reporting Party/Complainant's sexual interests or prior sexual conduct unless such questions and/or evidence is offered to prove that someone other than the Respondent committed the alleged conduct or is offered to prove consent with evidence concerning specific incidents of the Reporting Party/Complainant's prior sexual conduct with the Respondent. The fact of prior consensual sexual conduct between the Reporting Party/Complainant and Respondent does not demonstrate or imply the Reporting Party/Complainant's consent to the alleged Discrimination or Harassment or preclude a determination that Discrimination or Harassment occurred.

## **X. SANCTIONS & CORRECTIVE ACTION**

The College will take reasonable steps to prevent the recurrence of any violations of the Policy and to correct the discriminatory effects on the Complainant (and others, if appropriate). The sanctions and corrective actions that may be imposed for any violation of this Policy include but are not limited to:

- Verbal warning for employees

- Written warning for employees
- Probation for students
- Suspension for students
- Mandatory discrimination or harassment training or education
- Mandatory Counseling
- Technology/Equipment/Resource access restrictions
- College campus access restrictions
- Change in assigned duties and/or committee assignments
- Leave of absence for employees
- Termination of employment with the College

Corrective actions taken by the College might also include, but are not limited to: providing and/or requiring appropriate forms of counseling and training, developing educational materials and programming, implementation of revised policies and procedures, undertaking climate surveys and other mechanisms to identify and address patterns of violations. Additional corrective actions for a Complaint may include, but are not limited to, support services and accommodations such as escorts, counseling and medical services, academic or residential accommodations and support.

In instances where the College is unable to take disciplinary or other corrective action in response to a reported violation, the College will consider other steps available to limit the effects of the conduct at issue and prevent its recurrence, such as the continuation of supportive measures, training and education.

A Reporting Party/Complainant will be informed of the outcome of the investigation, but may not be informed specifically of all sanctions or other remedial action.

## **XI. APPEAL**

Either party may appeal the written decision of an adjudication, or a dismissal of a Complaint, on one or more of the following grounds:

- A procedural irregularity that would change the determination of whether a Policy violation occurred.
- There is new evidence that would change the outcome of the matter and that was not reasonably available at the time the determination of whether the Policy was violated occurred or dismissal was made.
- The sanction is disproportionate to the violation.

- The Title IX Coordinator, investigator, or decision maker, as the case may be, had a conflict of interest or bias for or against Reporting Parties or Responding Parties generally, or against the individual Reporting Party/Complainant or Respondent, that would change the outcome.

No other grounds for appeal are permitted.

A party must file an appeal within seven (7) business days of the date they receive notice the written decision or dismissal appealed from or, if the other party appeals, within seven (7) business days of receiving notice that the other party has appealed, whichever is later. The appeal must be submitted in writing to the Title IX Coordinator. The appeal must specifically identify the written decision and/or dismissal appealed from, articulate which one or more of the four grounds for appeal are being asserted, explain in detail why the appealing party believes the appeal should be granted, and articulate what specific relief the appealing party seeks.

Promptly upon receipt of an appeal, the Title IX Coordinator will conduct an initial evaluation to confirm that the appeal is timely filed and that it invokes at least one of the permitted grounds for appeal. If the Title IX Coordinator determines that the appeal is not timely, or that it fails to invoke a permitted ground for appeal, the Title IX Coordinator will dismiss the appeal and provide written notice of the same to the parties.

If the Title IX Coordinator confirms that the appeal is timely and invokes at least one permitted ground for appeal, the Title IX Coordinator will provide written notice to the other party that an appeal has been filed and that the other party may submit a written opposition to the appeal within seven (7) business days.

Upon receipt of any opposition, or after the time for submission of an opposition has passed without one being filed, the Title IX Coordinator will transmit the appeal(s) and any records from the investigation and adjudication necessary to resolve the grounds raised in the appeal to the College designated appeals officer. The appeal officer will promptly decide the appeal and transmit a written decision to the parties and the Title IX Coordinator that explains the outcome of the appeal and the rationale.

The determination of a Complaint, including any sanctions, becomes final when the time for appeal has passed with no party filing an appeal or, if any appeal is filed, at the point when the appeal officer has resolved all appeals, either by dismissal or by transmittal of a written decision.

No further review beyond the appeal is permitted.



Although the length of each appeal will vary depending on the totality of the circumstances, the College strives to issue the appeal officer's written decision within twenty one (21) business days of an appeal being transmitted to the appeals officer.

## **XII. ADVISOR OF CHOICE AND OTHER ACCOMPANYING PERSONS**

From the point a Complaint is made that alleges sexual misconduct and until an investigation, adjudication, and appeal are complete, the Reporting Party/Complainant and Respondent in such a case will have the right to be accompanied by an advisor of their choice to all meetings and interviews that are part of the investigation, adjudication, and appeal process.

The advisor will play a passive role and is not permitted to communicate on behalf of a party, insist that communication flow through the advisor, or communicate with the College about the matter without the party being included in the communication. In the event a party's advisor of choice engages in material violation of the parameters specified in this Policy, the College may preclude the advisor from further participation, in which case the party may select a new advisor of their choice.

The College is not required to provide a party with an advisor in any circumstance. For this reason, the College may prohibit its employees from serving as advisors where such service would interfere with the employee's work or other obligations to the College or where such employee's service would create a conflict of interest.

As a general matter, the advisor described in this section is the only person who may accompany a party to meetings and interviews. To the extent the College deviates from this rule and allows a party to be accompanied by one or more persons in addition to an advisor, the same right shall be extended to the other party. More information about the role of the Advisor may be found in Appendix B.

### **Investigation & Resolution Procedures Updated 1/27/2025**

Some language in this policy and in the Discrimination & Harassment Investigation and Resolution procedures is adapted from the ATIXA One Policy, Two Procedures (1P2P) Model. Version 6.0 ©2024 ATIXA. Used with Permission

## **APPENDIX A: AGREEMENT-BASED INFORMAL RESOLUTION**

### **I. Initiating the Agreement-Based Resolution Process**

Prior to the initiation of Agreement-Based Resolution, the Title IX Coordinator will provide the Parties written notice that includes:

1. The specific allegation and the specific conduct that is alleged to have occurred;
2. The requirements of the Agreement-Based Resolution process;
3. Any consequences resulting from participating in the Agreement-Based Resolution process, including the records that will be maintained or could be shared, and whether the College could disclose such information for use in a future Resolution Process, including an investigation and Resolution Process arising from the same or different allegations, as may be appropriate;
4. Notice that an agreement resulting from the Agreement-Based Resolution process (an Agreement) is binding only on the parties and is not subject to appeal;
5. Notice that once the Agreement is finalized and signed by the Parties, they cannot initiate or continue an investigation procedure arising from the same allegations;
6. A statement indicating that the decision to participate in the Agreement-Based Resolution process does not presume that the conduct at issue has occurred;
7. A statement that the Respondent is presumed not responsible for violating this Policy, unless Respondent admits to violations of this Policy;
8. An explanation that all parties may be accompanied by an Advisor of their choice, who may be a parent, colleague, friend, or attorney;
9. A statement that any party has the right to withdraw from the Agreement-Based Resolution process and initiate or resume investigation and resolution procedures at any time before agreeing to a resolution;
10. Information regarding Supportive Measures, which are available equally to the parties; and
11. The potential terms that may be requested or offered in an Agreement-Based Resolution Agreement.

## **II. Facilitating an Agreement**

If all Parties are willing to explore Agreement-Based Resolution, the Title IX Coordinator will then meet separately with each party to discuss the Agreement-Based Resolution process and facilitate an Agreement.

If an agreement cannot be reached, either because the Parties do not agree, determine they no longer wish to participate in the Agreement-Based Resolution process, or the Title IX Coordinator does not believe that the terms of the Agreement or continuing the Agreement-Based Resolution process is appropriate, the Title IX Coordinator may decide that the reported conduct will instead be addressed through the Investigation and Resolution Process. The Title IX Coordinator will inform the parties of such a decision, in writing.

Agreement-Based Resolution processes are managed by facilitators who do not have a conflict of interest or bias in favor of or against Reporting and/or Responding Parties generally or regarding the specific parties in the matter. The Title IX Coordinator may serve as the facilitator, subject to these restrictions. Investigators or Decision Makers for the matter may not facilitate an Agreement-Based Resolution in that same matter.

Any party may craft or create the terms of their agreement and will be asked for their suggestions or ideas. Examples of agreements may include but are not limited to:

- One of the parties will change classes or housing assignments;
- The Parties will not communicate or otherwise engage with one another;
- Completion of a training or educational project by the Respondent;
- Engage in a restorative justice process or facilitated dialogue;

To facilitate Agreement-Based Resolution, information shared by any party will not be used in any related Resolution Process of the same complaint under this policy. No evidence concerning the allegations obtained within the Agreement-Based Resolution process may be disseminated to any outside person, provided that any party to the Agreement-Based Resolution process may generally discuss the allegations under investigation with a parent, Advisor, or other source of emotional support, or with an advocacy organization. An admission of responsibility made during an Agreement-Based Resolution process, however, may not be incorporated into the investigation and adjudication proceeding.

### **III. Finalizing the Resolution Agreement**

Once the final terms of the Resolution Agreement have been agreed upon by all parties, in writing, and approved by the Title IX Coordinator, the matter will be considered closed, and no further action will be taken. Once an Agreement is signed, no appeal is permitted. The Agreement-Based Resolution process is generally expected to be completed within twenty-one (21) business days and may be extended by the Title IX Coordinator as appropriate. All parties will be notified, in writing, of any extension and the reason for the extension.

Records of an Agreement-Based Resolution process can be shared with other offices as appropriate. Any violations of the terms of the Resolution Agreement may result in disciplinary action.

## **APPENDIX B: ADVISORS OF CHOICE IN THE INVESTIGATION AND RESOLUTION PROCESS**

### **I. Advisor's Role in the Resolution Process**

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 their advisee unless given specific permission to do so.

The Parties are expected to ask and respond to questions on their own behalf throughout the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

### **II. Records Shared with Advisors**

Advisors are provided the same opportunity as their advisee to access relevant evidence, and/or the same written investigation report that accurately summarizes this evidence. Advisors are expected to maintain the confidentiality of the records the College shares with them. Advisors may not disclose any College work product or evidence the College obtained solely through the Investigation and Resolution Process for any purpose not explicitly authorized by the College.

Advisors will be asked to sign an Advisor Agreement. The College may decline to share any information, evidence and/or materials with any Advisor who has not completed the Agreement. The College may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the Colleges confidentiality expectations.

### **III. Advisor Expectations**

The College generally expects an Advisor to adjust their schedule to allow them to attend Investigation and Resolution Procedures meetings/interviews/hearings when planned. The College may reschedule meetings/interviews to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay. The College may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies.

All Advisors are subject to the same College policies and procedures, whether they are attorneys or not. Advisors are expected to advise without disrupting proceedings.

If a non-student is a party to an allegation involving a student as the Complainant or Respondent, the non-student will be provided the same opportunity to be accompanied by an Advisor of choice to any meeting or proceeding.

#### **IV. Advisor Policy Violations**

Any Advisor who oversteps their role, who shares information or evidence in a manner inconsistent with the Policy and these Procedures, or who refuses to comply with the College's established rules of decorum will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including the College requiring the party to use a different Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.