

BERKELEY COLLEGE

Title IX Sex Discrimination, Sex-Based Harassment and Sexual Misconduct Procedures

I. Introduction and Scope

Berkeley College (the “College”) is committed to providing a prompt and equitable response to reports of Prohibited Conduct under the [Title IX Sex Discrimination, Sex-Based Harassment and Sexual Misconduct Policy](#) (the “Policy”)¹.

These Procedures apply to reports of the following types of conduct alleged to have been committed by students and associates:

- **Sex Discrimination**, regardless of parties’ roles at the College
- **Retaliation**, regardless of the parties’ roles at the College
- **Quid Pro Quo Sex Based Harassment that does not involve a student** as a Complainant or Respondent
- **Hostile Environment Sex-Based Harassment that does not involve a student** as a Complainant or Respondent

Enhanced Procedures (noted by language highlighted in blue/in blue text boxes) apply when the College is investigating and adjudicating the following types of cases (All such cases shall be known as “**Enhanced Cases**”):

- **Quid Pro Quo Sex-Based Harassment involving a student** as Complainant or Respondent
- **Hostile Environment Sex-Based Harassment involving a student** as Complainant or Respondent
- **Sexual assault**, regardless of the parties’ roles at the College
- **Dating violence**, regardless of the parties’ roles at the College
- **Domestic violence**, regardless of the parties’ roles at the College
- **Stalking**, regardless of the parties’ roles at the College
- **Sexual Exploitation**, regardless of the parties’ roles at the College.

¹ All terms with initial caps are defined in the Policy. The Policy and these Procedures are meant to be read together.

The College encourages all individuals to report Prohibited Conduct or a potential violation of the Policy to the Title IX Coordinator, Deputy Title IX Coordinators, and/or to local law enforcement, if applicable. A Complainant has the right to report, or decline to report, potential criminal conduct to law enforcement. Upon request, the College will assist a Complainant in contacting law enforcement at any time. Under limited circumstances posing a threat to health or safety of any individual or to comply with applicable law, the College may independently notify law enforcement.

The College will treat Complainants and Respondents equitably by offering Supportive Measures to both parties, and by following a resolution process that complies with the Title IX regulations before the imposition of any disciplinary sanction against a Respondent.

Upon receipt of a report of Prohibited Conduct, the matter may be resolved through:

- Provision of Supportive Measures only;
- Pursuing a formal resolution process, which is initiated by the making of a Complaint, and involves an investigation, adjudication and appeal rights; or
- Dismissal of a Complaint

All time frames mentioned throughout these processes are approximate and may be extended for good cause with written notice to the parties. Good cause may include considerations such as the absence of a party, a party's advisor, if applicable, or a witness; concurrent law enforcement activity; the need for language assistance or accommodation of disabilities; or other considerations that impact the timing of the investigation, adjudication or appeal.

II. Reporting

To make a report or Complaint alleging conduct prohibited by the Policy, an individual may contact any of the following officials:

Sherrille Shabazz, EdD.

Vice President, Student Development and Campus Life and Title IX Coordinator
Berkeley College
3 East 43rd Street
New York, NY 10017
TitleIXCoordinator@BerkeleyCollege.edu 646-948-1361

LaTysha Gaines

Campus Operating Officer for Woodland Park and Deputy Title IX Coordinator for Students
LaTysha-Gaines@BerkeleyCollege.edu
973-368-9857

Karen Carpentieri

Vice President for Human Resources and Deputy Title IX Coordinator for Associates

kjc@BerkeleyCollege.edu

646-948-1361

To file a criminal complaint outside the College, an individual should contact the Public Safety Department at (973) 200-1172 for assistance, or contact the Police Department at 911 (in an emergency).

The College responds to reports of Prohibited Conduct with sensitivity and care and attempts to maintain privacy throughout the investigatory process, to the extent practicable and appropriate under the circumstances. However, in order to conduct an investigation, it is generally necessary to discuss the allegations with the person(s) responding to the allegations and other witnesses. Additionally, the College may have legal obligations to disclose information to law enforcement or in the context of legal proceedings.

III. Coordination with Law Enforcement

The College's overarching goal is to ensure that all Complaints are investigated and adjudicated in a prompt, fair, and impartial manner. Where a criminal investigation is initiated by law enforcement, the College will take reasonable steps to coordinate its investigation with law enforcement authorities and will endeavor to have the College's investigation/proceeding run concurrently with any criminal justice investigation and proceeding. In limited circumstances, the College may delay the start of its investigation in order to avoid interfering with an ongoing investigation by law enforcement officers. Temporary delays should not last more than ten days unless law enforcement specifically requests and justifies a longer delay. The College will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, as appropriate, will take immediate steps to provide Supportive Measures for the Complainant.

IV. Intake and Outreach

Upon receipt of a report from a Complainant, Responsible Employee, or other individual, the Title IX Coordinator (or designee) will promptly – typically within 72 hours – contact the reporting individual to request a meeting to gather supplemental information (if any) and explain the College's processes. If the reporting individual is a potential Complainant (the individual who is reported to have experienced Prohibited Conduct), the outreach will also cover reasonably available Supportive Measures (available with or without making a Complaint), the process for making a Complaint, the Complainant's right to report the alleged conduct to law enforcement, if applicable, the difference between Privacy and Confidentiality, and the right to be protected from Retaliation.

In addition to the initial conversation and any subsequent meeting with the Complainant, the College will provide the Complainant with written information about resources, procedural options, including local law enforcement resources as applicable and

reasonably available Supportive Measures. As part of the Intake and Outreach, the Title IX Coordinator will:

- Promptly contact the Complainant to discuss the availability of Supportive Measures;
- Consider the Complainant's wishes with respect to Supportive Measures;
- Assess the nature and circumstances of the report;
- Address immediate physical safety and emotional well-being of the Complainant or other campus community members;
- Discuss the Complainant's expressed preference for manner of resolution and any barriers to proceeding;
- Discuss the differences between confidentiality and privacy;
- If applicable, notify the Complainant of the right to contact or decline to contact campus security, local law enforcement, and/or state police, and if requested, assist them with notifying law enforcement;
- If applicable, explain to the Complainant the differences between the campus process and law enforcement process;
- If applicable, notify the Complainant of the availability of counseling and medical services including free and fee-based services on and off-campus to address physical and mental health concerns and to preserve evidence, including the option to obtain a sexual assault forensic exam;
- Notify the Complainant of the importance of preserving evidence;
- If applicable, ensure that the report is routed to the appropriate person(s) so that it may be entered into the College's Daily Crime Log, if required by the Clery Act;
- If applicable, ensure that the report is routed to the appropriate person(s) who will assess the need for a Timely Warning under the Clery Act;
- Provide the Complainant with information about on and off-campus resources;
- Provide the Complainant with a copy of the Policy and these Procedures and an explanation of the procedural options, including seeking Supportive Measures and the process for making a Complaint;
- Assess for evidence of a pattern or other similar conduct by the Respondent;
- Explain the College's prohibition against Retaliation; and

- Explain the Complainant's right to withdraw a complaint or cease involvement from Berkeley College's process at any time.

- For Enhanced Cases only: Inform the Complainant that they may seek an advisor of their choosing to assist them throughout the investigation and resolution of the report and that the advisor may accompany them to any meeting or proceeding under this process.

Complainants have the right to disclose to Berkeley College representatives, who may offer confidentiality pursuant to applicable laws. Even Berkeley College representatives who cannot guarantee confidentiality will maintain Complainants' privacy to the greatest extent possible. The information a Complainant provides to a nonconfidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. If the Respondent is an employee, Complainants have the right to disclose the incident to Berkeley College Human Resources and may seek assistance from a confidential or private employee in reporting to Berkeley College Human Resources. Complainants also have the right to disclose confidentially and to obtain information from the state or local government. Complainants have the right to receive information from Berkeley College representatives relating to family court and/or civil court legal resources.

For Enhanced Cases only: Complainants have the right to have emergency access to a Title IX Coordinator or other official trained in interviewing victims of sexual assault. The Title IX Coordinator or other official will be available at first disclosure to provide information about reporting options, resources including counseling and medical services, confidentiality, privacy, the differences between the campus and law enforcement processes, and – as applicable – obtaining a sexual assault forensic exam, STIs and related medical care, and resources through the New York State Office of Victim Services.

If a Complainant or Respondent is a student with a disability, the Title IX Coordinator may consult, if necessary, with the Office of Accessibility Services to determine how to comply with applicable disability laws.

V. Supportive Measures

Upon receipt of a report of Prohibited Conduct, regardless of whether a Complainant chooses to make a Complaint, the Title IX Coordinator will provide Supportive Measures, as reasonable, available, and appropriate. Respondents are also eligible for Supportive Measures as reasonable, available, and appropriate.

As stated in the Policy, Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the making of a Complaint or where no Complaint has been made. Supportive measures may not unreasonably burden a Complainant or Respondent. Such measures are designed to restore or preserve equal access to the College's Education Program or Activities, including

measures designed to protect the safety of all parties or the education environment, provide support during a resolution process under the Policy, or deter Sex Discrimination. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Individuals may contact the Title IX Coordinator at (646)-948-1361, or TitleIXCoordinator@BerkeleyCollege.edu, to discuss or request Supportive Measures. The College will maintain as confidential any Supportive Measures provided to a Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the Supportive Measures.

The Title IX Coordinator or Deputy Title IX Coordinators will document each report or request for assistance, including requests for Supportive Measures, as well as the response to any such report or request.

Review of Supportive Measures

The College provides for a Complainant or Respondent to seek modification or reversal of the College's decision to provide, deny, modify or terminate a Supportive Measure.

This review will be done by an impartial employee of the College, who did not make the challenged decision on the original Supportive Measure request. The impartial employee of the College who makes this determination will have the authority to modify or reverse the decision if that impartial employee determines that the decision to provide, deny, modify or terminate the Supportive Measure was inconsistent with the procedure as outlined above for providing Supportive Measures in accordance with the Title IX regulations.

Parties are only allowed to challenge their own individual Supportive Measures. Challenges by one party will not be heard to Supportive Measures afforded to the opposite party, unless that Supportive Measure directly impacts the party making such challenge (i.e., two-way no contact orders).

VI. Emergency Removal and Administrative Leave

A. Emergency Removal

As stated in the Policy, certain circumstances may warrant removing a Respondent from a Berkeley College Educational Program or Activity. The College may remove a Respondent on an emergency basis from College property or employment, education or programs or activities. Before imposing an emergency removal, the College will undertake an individualized safety and risk analysis and, if it determines that an immediate threat to the physical health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, the Respondent may be removed.

The Title IX Coordinator will promptly provide the Respondent with written notice of any removal and an opportunity to challenge the removal. During any challenge, the Respondent will remain off-campus and must comply with the notice of removal. That notice shall include a statement that the use of any information the Respondent chooses to provide may subsequently be used in implementing any aspect of this Policy, including the investigation and adjudication. The Respondent will have 72 hours to submit a written challenge to the safety and risk analysis to the Title IX Coordinator.

B. Administrative Leave

As stated in the Policy, following a report of Prohibited Conduct, the College may place an associate Respondent on administrative leave from employment responsibilities during the pendency of the grievance process, with or without pay.

VII. Preliminary Inquiry

Upon receipt of a report of Prohibited Conduct, the Title IX Coordinator (or a designee) will conduct a preliminary inquiry of the facts to determine whether the College must take any other action, beyond those described in the Intake and Outreach and Supportive Measures sections above, in response to the reported conduct, including whether the Title IX Coordinator must initiate a Complaint and investigation. The Title IX Coordinator will first determine whether the reported conduct falls within the scope and jurisdiction of the Policy, and more specifically, within the jurisdiction of the Title IX regulations.

Based on reasonably available information at the time of intake, the Title IX Coordinator's inquiry will include assessing whether:

1. The reported conduct occurred within a Berkeley College Education Program or Activity, which includes:
 - a. all of the College's operations, including locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the conduct occurs;
 - b. any building owned or controlled by a student organization that is officially recognized by the College; and
 - c. conduct that is otherwise subject to the College's disciplinary authority; and
2. The facts set forth by the report, if substantiated, would constitute Prohibited Conduct, in violation of the Policy.

Based on the answers to these questions, the Title IX Coordinator will make a determination about the procedures to be followed. This is a threshold determination regarding scope and jurisdiction, which will determine appropriate next steps.

If the Respondent is not an associate or student, the College's ability to take disciplinary action may be limited and will be determined by the context of the Prohibited Conduct and the nature of the relationship of the third-party Respondent to the College. The Title IX regulations, which direct the College's response to reports of Sex Discrimination as defined in the Title IX regulations, do not draw a line between on campus, off campus, or online, provided the conduct occurred in the Education Program or Activity. Examples include College-sponsored, College-funded or otherwise College-supported study off campus, research, internship, mentorship, summer session, conferences, meetings, social events, or other affiliated programs or premises within the United States. With regard to conduct that occurs *outside the United States* but within the Education Program or Activity, such as a College-supported study abroad program, the College prohibits and will address allegations of sexual assault, dating violence, domestic violence and stalking.

This Policy also applies to reports of Prohibited Conduct that occur outside of the Education Program or Activity (and/or outside the United States) where that conduct has contributed to a sex-based hostile environment in the Education Program or Activity (and/or within the United States), or that fall within the scope of conduct otherwise regulated by the College. For example, this Policy may apply to a report of an off-campus sexual assault committed by a student or associate if that off-campus sexual assault contributes to a sex-based hostile environment in the Education Program or Activity.

The Title IX Coordinator will select the appropriate process to use in a given situation based on the nature of the Prohibited Conduct reported, the role of the Respondent, and whether the conduct occurred within the Education Program or Activity. All of the College's processes, however, incorporate important procedural protections and are designed to be fair, impartial, prompt and equitable.

Student employees. If a Complainant or Respondent is both a student and an employee of the College, the College shall make a fact-specific inquiry to determine whether the requirements for **Enhanced Procedures** apply. In making this determination, the College shall, at a minimum, consider whether the party's primary relationship with the College is to receive an education and whether the alleged sex-based harassment occurred while the party was performing employment-related work.

VIII. Complaint

The formal resolution process (investigation, adjudication and appeal process) is initiated by the making of a Complaint. A Complaint is an oral or written request that objectively can be understood as a request for the College to investigate and make a determination regarding Prohibited Conduct. The Title IX Coordinator also has the discretion to make a Complaint on behalf of the College.

The College endeavors to respect the wishes of a Complainant to not pursue a Complaint, to not be identified and/or to not participate in the process. Where possible, the College attempts to address Complaints in accordance with the Complainant's wishes. However, the College may not always be able to do so. The College may be limited in its ability to address incidents of Prohibited Conduct without full participation by a Complainant.

In evaluating the appropriate manner of resolution, including whether the Title IX Coordinator will make a Complaint in the absence of a Complaint by the Complainant, the Title IX Coordinator will consider the following factors:

- The Complainant's request not to proceed with the initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of Sex Discrimination would occur if a Complaint is not initiated;
- The severity of the alleged Sex Discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- The age and relationship of the parties, including whether the Respondent is an employee of the College;
- The scope of the alleged Sex Discrimination, including information suggesting a pattern, ongoing Sex Discrimination, or Sex Discrimination alleged to have impacted multiple individuals;
- The availability of evidence to assist a decisionmaker in determining whether Sex Discrimination occurred; and
- Whether the College could end the alleged Sex Discrimination and prevent its recurrence without initiating its grievance procedures.

In order to protect the community, the College may be obligated to investigate and adjudicate serious incidents even when the Complainant asks that the College not investigate or otherwise address the matter. A Complainant may withdraw a Complaint at any time, but the College may be compelled to continue the associated investigation or conduct process. The College reserves the right to take action in response to any incident that comes to its attention.

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 the other, where the allegations arise out of the same facts or circumstances. If one of the Complaints to be consolidated would fall under **the Enhanced Procedures**, the grievance procedures for investigating and resolving the consolidated Complaint must follow **the Enhanced Procedures**.

IX. Dismissal of Complaint

- The College may dismiss a Complaint 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 Education Program or Activity and is not employed by the College;
 - the Complainant voluntarily withdraws any/all allegations in writing, the Title IX Coordinator declines to initiate a Complaint, and without the withdrawn allegations, the conduct that remains in the Complaint would not constitute Sex Discrimination even if proven; and
 - after reasonable efforts to clarify the allegations, the College determines that the conduct alleged would not constitute sex discrimination.
- Upon dismissal, the College must promptly notify the Complainant in writing of the dismissal and basis for the dismissal and provide an opportunity to appeal 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 dismissal determination was made, or 3) the Title IX Coordinator, Investigator, or Decision Maker 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. If Respondent has been notified of the allegations, the College must also notify the Respondent simultaneously, in writing of the dismissal, basis, and that it may be appealed.
 - If the dismissal is appealed, the College must:
 - notify the parties of the appeal in writing, including notice of the allegations if notice was not previously provided to the Respondent;
 - implement appeal procedures equally for the parties;
 - ensure the Decision Maker on appeal did not take part in an investigation of the allegations or dismissal of the Complaint;
 - ensure the Decision Maker on appeal has been trained as required;
 - provide the parties a reasonable and equal opportunity to make a statement supporting or challenging the outcome in writing; and
 - notify the parties of the result of the appeal and rationale in writing.
 - A College who dismisses a complaint must:
 - offer Supportive Measures to the Complainant as appropriate;

- if the Respondent has been notified, offer supportive measures to Respondent as appropriate;
- require the Title IX Coordinator to take appropriate, prompt, effective steps to ensure that Sex Discrimination does not continue or recur within the education program or activity.

X. Advisors (For Enhanced Cases only)

The College shall provide the parties with the same opportunities to be accompanied to any meeting/proceeding by an advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor in any meeting/proceeding. However, the College may establish restrictions regarding the extent to which the advisor may participate in the grievance procedures, as long as the restrictions apply equally to the parties. For example, advisors, including attorneys, may not participate in the process or speak on behalf of the Complainant or Respondent. In addition, while advisors may ask to suspend any meetings, interviews, or hearings briefly to consult with the party they are advising, the College retains the discretion to deny advisors' requests to suspend meetings, interviews, or hearings, if such requests are excessive, burdensome, or otherwise unreasonable.

XI. Processes for Formal Resolution

A. Standard of Evidence

In all stages of the process, including following an investigation and evaluation of all relevant and not otherwise impermissible evidence, Berkeley College shall apply the preponderance of the evidence standard (i.e., more likely than not) when determining whether sex discrimination occurred under the Policy.

B. Formal Resolution Process

A formal resolution process will occur when (a) a report of a violation of the Policy is made and the Complainant makes a Complaint; or (b) the Title IX Coordinator makes a Complaint after making the determination that a formal resolution process is necessary.

4. Investigation

a. Expectations for the Parties

During the investigation and resolution process, the College's grievance procedures shall:

- Treat Complainants and Respondents equitably;
- Require that any person designated as a Title IX Coordinator, Investigator, or Decision Maker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent;

- Include a presumption that the Respondent is not responsible until a determination is made at the conclusion of the grievance procedures;
- Establish reasonably prompt time frames for major stages of the grievance procedures;
- Include a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice to the parties that includes the reason for the delay;
- Take reasonable steps to protect privacy of the parties and witnesses during the pendency of the grievance procedures, provided that the steps do not restrict the ability of the parties to:
 - obtain and present evidence,
 - consult with confidential resources, **advisors**, or family, or
 - prepare for or participate in the grievance procedures;
- Require an objective evaluation of all relevant and not impermissible evidence, including both inculpatory and exculpatory evidence;
- Provide that credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness;
- Exclude as **impermissible evidence**:
 - evidence protected under privilege recognized by federal or state law or 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 or witness's records made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the recipient obtains that party's or witness's voluntary written consent for use in the recipient's grievance procedures; and
 - evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent. The fact of prior sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude a determination that sex-based harassment occurred; and

- Describe the range of Supportive Measures available to Complainants and Respondents.
- If the College adopts grievance procedures that apply to the resolution of some but not all Complaints, the College shall articulate consistent principles for how it will determine which procedures apply.

b. Written Notice of Investigation

Upon initiation of the College's grievance procedures, the College must provide written notice of the allegations to the parties whose identities are known with sufficient time for the parties to prepare a response before any initial interview.

- The written notice must include:
 - a copy of these Procedures and the Policy; and
 - 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(s); the conduct alleged to constitute sex discrimination; and the date(s) and location(s) of the alleged incident(s), if known;
 - a statement that retaliation is prohibited;
 - a statement that the parties are entitled to an equal opportunity to access the relevant and not impermissible evidence or a written investigative report (but if a written investigative report is used, the College must further provide the parties with an equal opportunity to access the relevant and not impermissible evidence upon the request of any party);
 - a statement that the Respondent is presumed not responsible until a determination is made at the conclusion of the grievance procedures and that, prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
 - a statement that knowingly making false statements or knowingly submitting false information during the grievance procedures is prohibited and subject to discipline.
- For Enhanced Cases only: a statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, accompany them to any meeting or proceeding.

- If the College decides to investigate additional allegations by the Respondent toward the Complainant that are not included in the written notice or that are included in a Complaint that is consolidated, the College shall provide written notice of the additional allegation(s) to the parties whose identities are known;
- To the extent the College has reasonable concerns for the safety of any person as a result of providing this notice, the College may reasonably delay providing written notice of the allegations in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

c. Complaint Investigation

A College must provide for the adequate, reliable, and impartial investigation of complaints. To do so, the College:

- Must provide the name of the Title IX Investigator(s) to the parties in the notice of investigation and the parties shall be allowed to challenge the appointment of an investigator on the basis of conflict of interest or bias;
- Must ensure the burden is on the College, not the parties, to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred;
- Must provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not impermissible;
- Must review all evidence gathered and determine what is relevant and impermissible regardless of relevance;
- Must provide each party **and the party's advisor, if any**, with an equal opportunity to access the relevant and not impermissible evidence in the following manner:
 - A College must provide an equal opportunity to access either the relevant and not impermissible evidence or a written investigative report (but if a written investigative report is used, must further provide the parties with an equal opportunity to access the relevant and not impermissible evidence upon the request of either party);
 - A College must provide a reasonable opportunity to respond to the evidence or to the written investigative report prior to the determination regarding responsibility;
 - A College must take reasonable steps to prevent and address parties' **and their advisors'** unauthorized disclosure of information and evidence obtained solely through grievance procedures. Disclosures for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.
- The Title IX Investigator(s) will seek to complete the fact gathering stage of the investigation within 45 business days of the issuance of the notice of investigation. As

stated earlier, The Title IX Coordinator and the Title IX Investigator(s) may grant temporary delays of the investigation or the limited extension of time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action.

- For Enhanced Cases only: Must provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate;
- Must provide the parties with the same opportunities to be accompanied to any meeting/proceeding by an advisor of their choice, who may be but is not required to be an attorney, and not limit the choice or presence of advisor in any meeting/proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in the grievance procedures, as long as the restrictions apply equally to the parties;
- Must provide the parties with the same opportunities, if any, to have persons other than the advisor of the parties' choice present during any meeting/proceeding;
- Has discretion to determine whether the parties may present expert witnesses as long as the determination applies equally to the parties;
- If a College conducts a live hearing, it must provide the opportunity to review the evidence in advance of the live hearing; it is at the College's discretion whether to provide the opportunity to respond prior to, during, or both prior to and during the live hearing.

d. Additional Evidence

Both the Complainant and the Respondent are permitted to provide other evidence directly related to the allegations to the Title IX Investigator(s). Evidence may be inculpatory or exculpatory. Evidence includes any facts or information presented in support of an assertion and may include text messages, email exchanges, timelines, receipts, photographs, etc. Both the Complainant and Respondent also have the option to provide names of potential witnesses to the Title IX Investigator(s). Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information, or may have other information related to the incident, the disclosure, or related matters.

Any documentation shared by the Complainant or the Respondent with the Title IX Investigator(s) will be provided to the other party. The Title IX Investigator(s) may also consider additional documents, items or other relevant information.

During the course of the investigation, the parties should bring any new or evolving evidence, such as harassing or retaliatory conduct, to the attention of the Title IX

Investigator(s). The Title IX Investigator(s) may consider such information in the investigation and will also share any information about retaliation or violation of the terms of a Supportive Measure with the Title IX Coordinator for further action.

e. Acceptance of Responsibility

At any point during the investigation, the Respondent may elect to accept responsibility for some or all of the Policy violations at issue. Where there is an acceptance of responsibility as to some but not all of the charges, the investigation will continue to conclusion. Where there is an acceptance of responsibility as to all of the potential Policy violations, the Title IX Investigator(s) will complete an investigation report of all information gathered to date and refer the matter to the Decision Maker for sanctioning as described below.

2. Preliminary Investigation Report

Prior to completion of the Final Investigative Report, the College shall make information gathered in the investigation available for review by the parties **and their advisors**. The parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is relevant to the allegations raised in the Complaint, including both inculpatory and/or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The College will send to each party **and the party's advisor, if any**, the Preliminary Report subject to inspection and review in an electronic format or a hard copy, and the parties shall have 10 business days to submit a written response, which the Title IX Investigator(s) will consider prior to completion of the Final Investigative Report.

In the written submission, the parties may offer additional comment or feedback on the facts as gathered, clarify information previously shared, suggest additional witnesses, suggest additional lines of questioning or inquiry, or identify any other relevant information or evidence to assure the thoroughness, sufficiency and reliability of the investigation.

3. Final Investigation Report

The Title IX Investigator(s) will thereafter produce a written Final Investigation Report that fairly summarizes the relevant information and facts gathered during the investigation and may include direct observations and reasonable inferences drawn from the facts and discussion of any consistencies or inconsistencies between the various sources of information.

The Final Investigation Report will be a fair and thorough summary of all relevant information gathered that is inculpatory or exculpatory, and the accounts of the Complainant, the Respondent or other witnesses. The Final Report will be sent to each party **and their advisors** in an electronic format or a hard copy, for their review and written response. If a party disagrees with the Title IX Investigator(s)'s determinations about relevance, the party can make that argument in the party's written response to the Final Report and to the Decision Maker **at any hearing held**.

4. Notice of Hearing (For Enhanced Cases only)

The Title IX Coordinator or designee will provide the Complainant and Respondent with a written notice of hearing. The notice of hearing will include: the specific Policy violations that will be the subject of the hearing; the date, time, and location of the hearing; the name of the Decision Maker; how to challenge participation by the Decision Maker on the basis of conflict of interest or bias; the right to have an advisor present at the hearing.

5. Impact and Mitigation Statements (For Enhanced Cases only)

The Complainant may submit a written statement describing the impact of the Prohibited Conduct on the Complainant and expressing a preference about the sanction(s) to be imposed. The Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanctions(s) imposed. The Title IX Coordinator will provide any statement(s) to the Decision Maker, which will only be considered if there is a finding of responsibility. Each party has the opportunity to view the other party's statement.

6. Decision-Making Process/Hearing

Questioning parties and witnesses to aid in evaluating allegations and assessing credibility. A College must provide a process that enables the Decision Maker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating the allegations.

- For Enhanced Cases only: The College's sex-based harassment grievance procedures shall provide for a live hearing.
 - The College may conduct the live hearing with the parties physically present in the same geographic location.
 - At the College's discretion, or upon the request of either party, the institution shall conduct the hearing with the parties present in separate locations with technology enabling the Decision Maker and parties to simultaneously see and hear the person speaking.
 - The College shall create an audio/audiovisual recording or transcript, of any live hearing and make it available to the parties for inspection and review.
- Questioning of parties and witnesses shall take place consistent with the following provision before determining whether sex-based harassment occurred:

- At any live hearing, the process for proposing and asking relevant and not impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, must allow the Decision Maker to ask such questions, and allow each party to propose questions they want asked of any party/witness and have those questions asked by the Decision Maker.
- When the parties propose questions to be asked by the Decision Maker, the Decision Maker must first determine whether the proposed questions are 1) relevant, 2) permissible, 3) clear, and 4) not harassing of the person being questioned. The Decision Maker must make this determination with respect to each proposed question before it is posed. If the Decision Maker determines that a question is relevant, permissible, clear and not harassing, then the question must be asked. If the Decision Maker determines that a question is unclear or harassing of the person being questioned, then the Decision Maker must give the party an opportunity to clarify or revise the question. If the party sufficiently clarifies or revises a question, then the question must be asked. If the Decision Maker determines that a question will not be allowed – either because it is not relevant, not permissible, or it remains unclear or harassing even after the party has had the opportunity to clarify or revise the question – then the Decision Maker must explain the reason they are not permitting the question.
- A Decision Maker may choose to place less or no weight upon statements by a person who refuses to respond to relevant and not impermissible questions. The Decision Maker must not draw an inference about whether sex-based harassment occurred based solely on a person's refusal to respond to questions.
- The College may adopt and apply other reasonable rules regarding decorum at the hearing, provided they apply equally to the parties.
- All parties and witnesses will be invited to speak at the hearing, but no party or witness is required to attend the hearing. If a party or witness declines to attend a hearing, or attends but declines to submit to questioning by the Decision Maker, the Decision Maker may rely on any other statements of that party or witness in reaching a determination regarding responsibility.
- Traditional civil or criminal court rules of evidence do not apply at the hearing.

7. Written Determination

A College must simultaneously notify the parties in writing of the determination whether sex discrimination and/or sex-based harassment occurred, including the rationale for such determination and the procedures and permissible bases for the Complainant and Respondent to appeal.

- The written determination must include:
 - A description of the alleged sex discrimination and/or sex-based harassment;
 - Information about the policies and procedures that the College used to evaluate the allegations;
- For Enhanced Cases only: The Decision Maker's evaluation of the relevant and not impermissible evidence and determination whether sex-based harassment occurred;
 - When the Decision Maker finds that sex-based harassment occurred, any sanctions the institution will impose on the Respondent, whether remedies other than imposition of sanctions will be provided to the Complainant, and, to the extent appropriate, other students identified by the College to be experiencing the effects of the sex-based harassment.
- The determination regarding responsibility becomes final either 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.
 - If there is a determination that sex discrimination occurred, as appropriate, the College must require the Title IX Coordinator to (a) coordinate the provision and implementation of remedies to a Complainant and others the College identifies as having had equal access to the College's education program or activity limited or denied by sex discrimination, (b) coordinate the imposition of any disciplinary sanctions on Respondent, including notification to the Complainant of any such disciplinary sanctions, and, (c) 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.
 - The College must 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 College's determination whether sex discrimination occurred.

8. Sanctions

Sanctions imposed by the College following a Title IX adjudication and determination may include, but are not limited to, oral or written warning/probation, mandatory counseling, education and training requirements, no-contact orders, changes to academic or working (if applicable), revocation of campus privileges, suspension (length of which, and reinstatement conditions, shall depend upon the nature and severity of the offense) and dismissal/termination.

9. Appeals

Any party may appeal the determination of the Decision Maker, or the dismissal of a Complaint or any allegations therein. Parties wishing to appeal may do so only by (1) notifying the Title IX Coordinator in writing of the party's intent to appeal, and (2) submitting a written statement within ten (10) business days of the issuance of the determination (the "Appeal Period"). In her sole discretion, the Title IX Coordinator may grant a brief extension of the Appeal Period for good cause shown upon a party's written request, and such extension shall apply to all parties.

The Title IX Coordinator shall advise all parties of any party's intention to appeal and furnish each party copies of any appeal statements simultaneously. If one party submits a written statement during the Appeal Period, the other party will be given an opportunity to submit a written statement in response, within a designated time period.

- Determinations by the Decision Maker (and/or Complaint dismissals) will only be overturned or modified on appeal on the following bases:
 - Procedural irregularity that would change the outcome;
 - New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
 - The Title IX Coordinator, Investigator, or Decision Maker had a conflict of interest or bias that would change the outcome.

The College will appoint a senior College official with no conflict of interest to decide an appeal based upon the appeal statement(s) and the original record; and the decision of the reviewing official will be final.

For Enhanced Cases only: the College will convene a panel of not less than three (3) appropriately trained members to decide an appeal based upon the appeal statement(s) and the original record; and the decision of the appeal panel by majority vote will be final.

Whenever practicable, such review will be completed within thirty (30) business days, and both parties will be informed of the result, and the rationale for the result, simultaneously in writing.

XII. Record Keeping and Transcript Notations

The College will maintain records related to reports or complaints of Prohibited Conduct for a period of seven years. Such records may include, without limitation, investigation reports and evidence, hearing records, disciplinary decisions or communications, appeals, requests for and provision of Supportive Measures, and other records demonstrating actions the College took to respond to the reported conduct. The College will also maintain training records for the same period of time. The records will be kept private to the extent required or permitted by law.

If a student Respondent is found responsible for violence-related conduct as defined by the Clery Act (including Sexual Assault, Dating or Domestic Violence, or Stalking) and they are suspended or dismissed as a result, the College will place the following notations on their academic transcripts:

- In cases of suspension – “suspended after a finding of responsibility for a code of conduct violation.”
- In cases of dismissal – “dismissed after a finding of responsibility for code of conduct violation.”

If a student who has alleged to have been involved in an incident involving violence-related violations withdraws from the College with an investigation or conduct case pending, the following notation will be listed on their College transcript: “withdrew with conduct charges pending.”

Students found responsible for other forms of Prohibited Conduct, and who are suspended or dismissed as a result, will have the following notation listed on their transcript: “Administrative Withdrawal – College Initiated”.

Students who have been suspended who would like to appeal the suspension notation on their transcript may do so one year after the conclusion of the suspension by contacting the Title IX Coordinator. If their appeal is successful, the notation will be revised to read “Administrative Withdrawal – College Initiated.” Notations for dismissal will not be revised or removed.

XIII. Training and Conflict/Bias Prevention

The Title IX Coordinator, Title IX Investigators and Decision Makers, will receive annual training on: (a) the definition of Prohibited Conduct in the Policy; (b) the scope of the College’s Education Program or Activity; (c) how to conduct an investigation and grievance process including hearings, and appeals, according to these Procedures; (d) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; (e) the presumption of “not responsible” until any appropriate

process concludes; (f) how to conduct an investigation and adjudication process that protects the safety of the parties and promotes accountability; and (g) the meaning and application of the term “relevant” in relation to questions and evidence, and the types of evidence that are impermissible, regardless of relevance.

Any materials used to train the Title IX Coordinator, Title IX Investigators, and Decision Makers, will not rely on sex stereotypes and will promote impartial investigations and adjudications of Complaints of Prohibited Conduct.

The College also provides prevention and awareness programs for students, faculty, and staff to prevent Prohibited Conduct and promote a learning and working environment free from Sex Discrimination.

Throughout any formal resolution process described above, the College will take steps to reasonably ensure the Title IX Coordinator, Title IX Investigator(s), and Decision Makers, do not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.