



TITLE IX FORMAL GRIEVANCE PROCESS AND PROCEDURES

The following Title IX Formal Grievance Process and Procedures (the “Formal Process”) applies when a Complainant has submitted a Formal Complaint of Title IX Sexual Harassment under the Lees-McRae College Non-Discrimination and Title IX Policy. The procedures and provisions of the Formal Process are subject to change by the College at the discretion of its administrators and Title IX Coordinator.

TABLE OF CONTENTS

- 1. Review of the Formal Complaint 2
 - a. Determination of Whether the Formal Complaint Will Be Dismissed or Referred for Investigation 2
 - b. Written Notice to the Parties..... 3
 - c. Supportive Measures 3
 - d. Emergency Removal 4
 - e. Conflicts of Interest and Bias 4
 - f. Advisors..... 4
 - g. Timeframes 5
 - h. Use of Videoconference Technology 6
- 2. Investigation 6
 - a. Goals of the Investigation 6
 - b. Meetings 7
 - c. Disclosures 7
 - d. Investigative Report 8
 - e. Limits on Information and Documents Available to the Investigator 8
- 3. Hearings 9
 - a. Hearing Committee..... 9
 - b. Hearing Scheduled 9
 - c. Hearing Materials and Participants 9
 - d. Order of Hearing 10
- 4. Relevance..... 11
 - a. Relevant Evidence or Testimony..... 11
 - b. Evidence or Testimony that Is Not Relevant..... 11
 - c. Other Factors Considered in Determining Relevance 12
- 5. Cross-Examination 12

6.	Decorum and Courtesy During Proceedings	13
a.	Rules of Decorum.....	13
b.	Enforcement	14
7.	Determination Regarding Responsibility.....	14
a.	Timeframes for Determining Responsibility and Issuing Written Determination.....	14
b.	Contents of the Determination Regarding Responsibility	15
c.	Sanctions	15
d.	Remedies.....	15
8.	Appeals	15
a.	Basis for Appeal.....	15
b.	Submission of Appeal.....	16
c.	Response to Appeal	16
d.	Appeal Officer	16
e.	Appeal Decision.....	16
9.	Alternate/Informal Process	17

1. Review of the Formal Complaint

Within 5 business days of the receipt by the Title IX Coordinator of a Formal Complaint, the Title IX Coordinator will review the Formal Complaint as provided in this section. A “business day,” where the term is used in this Formal Process, is a day that the College is in session, according to the Main Campus Academic Calendar.

a. Determination of Whether the Formal Complaint Will Be Dismissed or Referred for Investigation

First, the Formal Complaint is reviewed by the Title IX Coordinator to determine whether the conduct described, if the allegations were substantiated, would constitute Title IX Sexual Harassment under the College’s Title IX Policies and Procedures (“Title IX Policy”).

- If the conduct as alleged would not constitute Title IX Sexual Harassment under the Title IX Policy, but alleges misconduct under a different College policy, the Title IX Coordinator must dismiss the complaint from the Formal Process and refer the alleged misconduct to the College administrator responsible for complaints under the applicable policy.
- If the conduct as alleged would constitute Title IX Sexual Harassment under the Title IX Policy and also alleges misconduct under a different College policy, the allegations of Title IX Sexual Harassment will first be addressed through the Formal Process, and allegations of other misconduct will be referred to the College administrator responsible for complaints under the applicable policy. After the conclusion of the Formal Process,

other alleged misconduct will be addressed by the College administrator responsible for complaints under the applicable policy.

- If any of the conduct as alleged constitutes Title IX Sexual Harassment, the Title IX Coordinator will determine whether the alleged conduct: (i) was perpetrated against a person in the United States; (ii) took place within the College's education program and activities; and (iii) was reported by a Complainant who, at the time of filing or signing the Formal Complaint, was participating or attempting to participate in the College's education program and activities. If these conditions are satisfied, the Title IX Coordinator will address the Formal Complaint using the Formal Process. If not all of these conditions are not satisfied, or subsequent investigation reveals that not all of the conditions are satisfied, the Title IX Coordinator will dismiss the Formal Complaint from the Title IX Formal Grievance Process.

Under certain circumstances and subject to the College's discretion, a Formal Complaint may be dismissed from the Formal Process:

- If the Complainant requests in writing to withdraw the Formal Complaint;
- If the Respondent is no longer enrolled or employed at the College; or
- When specific circumstances prevent the Title IX Investigator from gathering evidence sufficient for the College to reach a determination regarding the Respondent's responsibility for the alleged Title IX Sexual Harassment.

b. Written Notice to the Parties

After the above review process, the Title IX Coordinator's determination(s) and reasons for the determination(s) will be provided in writing to the Complainant and Respondent no later than 10 business days after receipt of the Formal Complaint.

If the Title IX Coordinator decides to dismiss the Formal Complaint, the decision to dismiss a Formal Complaint will be provided simultaneously to the parties and may be appealed by either party. Such an appeal must be submitted in writing to the Title IX Coordinator within 5 days after receipt of the written notice described in this Policy.

If the Formal Complaint is referred for investigation, the written notice described in this section will also include the name and contact information for the Title IX Investigator and notice that the Complainant or Respondent may obtain more information about the College's informal resolution process, if they are interested. If the Complainant or Respondent has concerns that the Title IX Investigator has a conflict of interest or source of bias that would prevent a fair investigation of the Formal Complaint, such concerns must be submitted in writing to the Title IX Coordinator within 5 business days after receipt of the written notice described in this Policy.

c. Supportive Measures

If the Complainant and Title IX Coordinator have not yet discussed supportive measures, supportive measures will be offered consistent with the Title IX Policy. Any supportive measures instituted by the College will be reviewed at reasonable intervals or as requested by the party.

d. Emergency Removal

If, in the Title IX Coordinator's discretion, the Respondent poses an immediate threat to the physical health or safety of any students or other individual and the College should consider removing the Respondent from some or all of the College's education programs or activities, the Title IX Coordinator will refer the Complaint to the Dean of Students and Officer of Student Affairs to consider emergency removal, or, in the case of a faculty or staff member, administrative leave, consistent with the provisions of the Title IX Policy.

e. Conflicts of Interest and Bias

The Title IX Coordinator, the Title IX Investigator, the Informal Resolution Coordinator, and all members of the hearing panel will be impartial, free from bias or conflicts of interest. "Bias" means that the College's Title IX personnel will not generally favor complaints or respondents because they are complainants or respondents and will undertake their roles in the process without applying stereotypes based upon sex, gender, or any other protected category. It also means that College personnel will not prejudge the allegations or facts at issue or reach conclusions about any issue before completing a full investigation of the allegations and gathering all of the relevant facts and evidence from all parties involved. A "conflict of interest" means that the person is biased in favor of or against a particular Complainant or Respondent due to prior interactions between them or a previously existing relationship that would prevent the person from impartially serving in their role in the Title IX process. Advisors selected by the parties are exempted from this prohibition on conflicts of interest and bias.

It is not a conflict of interest or bias for the Title IX Coordinator or Title IX Investigator to serve more than one role during the process, but Title IX Coordinator and Title IX Investigator are not permitted to serve on a Hearing Committee or Appeals Committee, facilitate an Informal Resolution, or serve as an Advisor to either party. Except for the Review described above, any actions described as undertaken by the Title IX Coordinator in this Formal Process may be performed by the Title IX Coordinator or by his or her delegate.

Bias is not assumed based upon professional or personal history, such as a person with a history of working in a field with sexual violence or criminal investigations, experience as a prosecutor or defense attorney, or experience as a victim advocate. However, determinations of whether a person facilitating the College's Title IX process is biased are made on a case-by-case basis, depending on the circumstances.

f. Advisors

During this process, the Complainant and Respondent have the right to be accompanied by an advisor of their choice, who may be, but does not have to be, an attorney. The advisor may be present for any meeting or proceeding during the investigative process and may confer with the party during the meeting or proceeding, help the party think of witnesses or issues to suggest to the Investigator for further investigation, take notes, and provide moral support, but the advisor may not interfere with the Investigator's questioning or gathering of evidence. The Complainant and Respondent must be accompanied by their advisors at the hearing. If the Complainant or Respondent has not obtained an advisor to accompany them to the hearing, or their advisor is absent for any reason, an advisor will be made available to them by the College.

Although the Title IX Coordinator cannot serve as an advisor, the Title IX Coordinator is still available as a resource to both parties to answer questions about the College's Title IX Policy, the Formal Process, and guide the parties on practical matters through the Formal Process or Alternative/Informal Process (if agreed to by the parties)

No later than ten (10) days prior to the scheduled hearing, the Complainant and Respondent must provide the name of and contact information for their advisor to the Title IX Coordinator. The advisor must independently confirm their planned attendance at the hearing. If the College does not receive confirmation of planned attendance from the party's selected advisor, a competent advisor will be selected and provided by the College at the hearing, free of charge. The advisor's name and contact information will be provided by the College no later than five (5) days before the hearing.

g. Timeframes

The College will investigate and adjudicate any Formal Complaint in a reasonably prompt manner. The College's goal is to complete the steps of the Formal Process within the following timeframes:

- As soon as possible after receipt of the Formal Complaint: Offer to discuss available supportive measures with Complainant.
- Five (5) business days after receipt of the Formal Complaint: Review of the Formal Complaint as described in Section 1a above.
- Ten (10) days after receipt of the Formal Complaint: Notice to the Complainant and Respondent as described in Section 1b above.
- Ten (10) business days after receipt of the Formal Complaint: Referral of the Formal Complaint to the Title IX Investigator for investigation pursuant to Section 2 below.
- Sixty (60) days after receipt of the Formal Complaint: Completion of the Title IX Investigation and notice to the parties of the disclosure of all directly related evidence pursuant to Section 2 below.
- Eighty (80) days after receipt of the Formal Complaint: Title IX Coordinator will ensure a Hearing pursuant to Section 3 below is scheduled.

- Fifteen (15) business days before the Hearing: Disclosure of the Title IX Investigative Report to the Complainant, Respondent, and Members of the Hearing Committee.
- Ten (10) business days before the Hearing: Disclosure of the names of the Members of the Hearing Committee to the Complainant and Respondent.
- Five (5) business days before the Hearing: Deadline for Complainant and Respondent to notify the Title IX Coordinator by email of any reason they believe any Member of the Hearing Committee has a conflict of interest or cannot serve impartially or without bias.
- Ten (10) business days after the Hearing: Issuance of a Determination Regarding Responsibility for the allegations of the Complaint by the Hearing Committee, as discussed in Section 7 below.

These timeframes are not mandatory and may be varied by the Title IX Coordinator or the College’s administration depending upon the circumstances. For example, if the timing of a Formal Complaint in close proximity to a break in the Academic Calendar causes difficulty in interviewing witnesses or convening a hearing within the above timeframes, the College will extend the timeframe as needed and notify the parties. If a timeline is extended longer than the standard identified in this section, notice of the extension will be provided to the Complainant and Respondent by the Title IX Coordinator.

h. Use of Videoconference Technology

The College may conduct any proceeding under this Title IX Formal Grievance Process and Procedures or any proceeding conducted as part of an Alternative/Informal Process using videoconference technology or any platform that allows live audio and visual broadcast of the participants. No party may demand “in person” proceedings. Decisions regarding the platform used and any accommodations needed to make remote proceedings as effective as practicable and equally accessible to both parties will be made by the Title IX Coordinator.

2. Investigation

After receipt of a Formal Complaint, a determination by the Title IX Coordinator that the Complaint constitutes Title IX Sexual Harassment, and notice to the parties as requested by the Title IX Policy, the Complaint will be referred to a Title IX Investigator for investigation.

a. Goals of the Investigation

The Title IX Investigator (the “Investigator”) will undertake a thorough and impartial search for relevant facts and evidence, while operating under the constraints of completing the investigation within a reasonably prompt timeframe.

The Investigator will ask the Complainant and Respondent for the identities of witnesses and any evidence or documents with information related to the allegations in the Formal Complaint. The Investigator will also ask whether the Complainant or Respondent believes that any evidence exists that is not currently in their possession and ask them to identify the

evidence and its believed location. However, by conducting a Title IX Investigation, the College does not promise to gather any particular fact or item of evidence.

The Investigator will approach the allegations of both parties with neutrality, treat both parties equally, and provide an equal opportunity to each party to present evidence, witnesses, and their version of the story.

The College has the burden of gathering evidence sufficient to reach a determination regarding the allegations in the Formal Complaint. However, the parties may also undertake their own searches for facts or evidence related to the allegations in the Formal Complaint, so long as they remain compliant with any no-contact orders or other restrictions imposed by the College as supportive or safety-related measures. In these searches, the parties may disclose the allegations of the Formal Complaint, but may not disclose information subject to a Confidentiality Agreement as described below.

b. Meetings

Complainant and Respondent will be given equitable opportunities to participate, or not, in any portion of the investigation. In cases where a party's participation is expected or requested, the party will be given written notice in advance of the investigative interview or other meeting with the Title IX Investigator. The notice will be provided no later than three (3) business days in advance. If a party has a scheduling conflict or does not feel that they have adequate time to prepare to participate, reasonable requests to reschedule will be considered by the Title IX Investigator.

The party's advisor may be present for any meeting or proceeding during the investigative process and may confer with the party during the meeting or proceeding, but may not directly interfere with the Investigator's questioning or gathering of relevant evidence. "Direct interference" does not include a situation where the advisor advises the party not to answer a question or provide particular information or evidence requested by the Investigator, and the party follows that advice. Under such circumstances, the Investigative Report may note that the question was asked or request was made and the party declined to answer or cooperate.

c. Disclosures

After the Investigator has finished gathering all reasonably available evidence and witness statements, a copy of all evidence deemed by the Investigator to be directly related to the allegations of the Formal Complaint will be provided to the Complainant and Respondent. This evidence is provided without any decision that the evidence is relevant to a determination of responsibility for the allegations in the Formal Complaint. The evidence is only provided after each party signs a Confidentiality Agreement in which they promise not to disclose the evidence or information received outside of the Title IX process. (This does not prevent the parties from discussing the allegations of the Formal Complaint with others or from gathering or presenting relevant evidence, as discussed in Section 2a above.)

d. Investigative Report

The Investigator will then determine which evidence is relevant to the allegations in the Formal Complaint and create an Investigative Report. The Investigative Report will contain the Investigator's assessment of what facts the evidence tends to show, what evidence and witnesses are relevant, and summarize the relevant evidence. The Title IX Investigator will not make a recommendation regarding responsibility.

A copy of the Investigative Report will be provided to the parties no later than 15 business days before the date scheduled for the hearing. The parties will have 10 business days to submit any evidence or names of witnesses that they believe are relevant and were not included in the Investigative Report and their responses or proposed corrections to the Investigative Report. These supplements to the Investigative Report will be shared with the Hearing Committee, Complainant, and Respondent, except to the extent that they contain information or evidence that is *per se* not relevant under Section 3 of these Procedures.

Any evidence or witnesses that a party wants to present outside of the Investigative Report must be disclosed and provided no later than the 10 business days before the Hearing as described above. If a party learns of new witnesses or obtains new evidence after the 10-day deadline but before the beginning of the hearing, the party should immediately provide this information in writing to the Title IX Investigator and Title IX Coordinator, with explanations as to why the witness or evidence is relevant and why the witness or evidence could not have been disclosed before the deadline. The Chair of the Hearing Committee will determine whether the witness or evidence is relevant and should be allowed at the hearing. If the new evidence or witness is allowed, the Title IX Coordinator will disclose the new evidence or information to the opposing party and consider requests to reschedule the hearing to allow all parties time to prepare to respond to the new evidence. If the Chair decides the new evidence or witness is not relevant, the party will be allowed to address the Hearing Committee at the hearing, after the presentation of witnesses and evidence, with arguments for why the evidence is relevant and should be considered.

e. Limits on Information and Documents Available to the Investigator

The Title IX Investigator may request that a party provide medical records or other information or documents that are private or protected from disclosure by law. A party may consent, in writing, to voluntarily providing such information or documents to the Title IX Investigator during the course of the investigation. The Investigator does not have subpoena powers and cannot obtain this information without agreement from the party. A party who voluntarily provides medical records or other sensitive information to the Title IX Investigator does so with the understanding that the records and information may be: (1) provided to the opposing party, if they are related to the allegations made in the Formal Complaint; (2) attached to or discussed in the Investigative Report, if they are relevant to a determination of responsibility; (3) provided to the Hearing Committee and may be the subject of relevant questions during the hearing, if

any; or (4) provided to the Appeals Committee, if Complainant or Respondent appeals the determination reached, if they are relevant to the basis for appeal.

Any person who receives a disclosure of confidential or sensitive information in the course of the investigation or hearing process will have a legal obligation to use it only during the Formal Process and to keep it safe from disclosure.

3. Hearings

a. Hearing Committee

This decision regarding whether the Respondent is responsible for a violation of the College's Title IX Policy is made by a three (3) person panel ("Hearing Committee"), after the Hearing Committee considers the evidence, testimony by witnesses, and the Investigative Report. The members of the Hearing Committee will select a Chair, who will conduct hearing proceedings as discussed below.

The membership of the Hearing Committee will be disclosed to the parties by the Title IX Coordinator no later than 10 business days before the hearing is scheduled to take place. If the Complainant or Respondent has any reason to believe that a conflict of interest exists or that any member of the Hearing Committee cannot serve impartially and without bias, they must email the Title IX Coordinator no later than 5 business days before the hearing is scheduled to take place.

b. Hearing Scheduled

The Title IX Coordinator will schedule a live hearing for presentation of evidence and witness testimony to be considered by the Hearing Committee in determining whether the Respondent is responsible for a violation of the College's Title IX Policy. Scheduling conflicts of the Complainant, Respondent, their advisors, and key witnesses will be taken into account as far as practicable. The determination of the Title IX Coordinator as to when and where the Hearing will take place is final.

c. Hearing Materials and Participants

In advance of the hearing, the Hearing Committee will be provided with the final Investigative Report and the parties' responses and any exculpatory or inculpatory evidence provided by the Complainant or Respondent. As stated elsewhere in the Policy, the Complainant and Respondent must each be accompanied by an advisor at the hearing and will be provided with an advisor by the College if they do not have one. The Complainant and Respondent must both attend the hearing by videoconference or other method that allows them to observe and participate during the Hearing, unless the Complainant or Respondent refuses to participate in the process. If the Complainant or Respondent fails to attend a hearing because he or she refuses to participate in the process, the hearing may be conducted and a Determination Regarding Responsibility reached without their attendance.

d. Order of Hearing

The order of events during the hearing will proceed as follows:

- The Chair of the Hearing Committee will introduce each participant in the hearing, including naming witnesses who will be asked to testify. The Chair may review the allegations of the Formal Complaint, explain the hearing process as outlined in this policy, and note when breaks will be offered or may be requested. The Chair will also explain the Rules of Decorum that apply to the hearing process. Before beginning the proceedings, the Chair will ensure that each participant has a copy of the Investigative Report, any supplemental materials from the parties, and witness list for the Hearing.
- The Complainant and Respondent may each make an opening statement no more than five (5) minutes in duration. Advisors are not permitted to make these statements on behalf of the Complainant or Respondent and may not address the panel during this time, although the party may confer with their advisor.
- The Chair will call witnesses to testify in the order they are listed. The witness list will include whether the witness is offered by the Complainant, Respondent, or neither. If the witness has provided a written statement, copies of the written statement will be offered to all hearing participants. The witnesses will be examined in the following order:
 - The Complainant (if present) and witnesses offered by the Complainant will be questioned by members of the Hearing Committee, the Respondent's advisor, and the Complainant's advisor. A round of follow-up questions may be asked in the same order.
 - The Respondent (if present) and witnesses offered by the Respondent will be questioned by members of the Hearing Committee, the Complainant's advisor, and the Respondent's advisor. A round of follow-up questions may be asked in the same order.
 - If any, witnesses that have relevant testimony but are not offered by Complainant or Respondent will be questioned by members of the Hearing Committee, the Complainant's advisor, and the Respondent's advisor. A round of follow-up questions may be asked in the same order.
 - If requested by the Complainant, Respondent, or a member of the Hearing Committee, the Title IX Investigator will testify last and may be asked relevant questions by members of the Hearing Committee, the Complainant's advisor, and the Respondent's advisor. A second round of follow-up questions may be asked in the same order.
- After witnesses are examined, the Complainant and the Respondent will be allowed to address the Hearing Committee with arguments for why any evidence that was excluded from consideration during the hearing is relevant and should be considered.

Any decision to exclude evidence or witness testimony after these arguments are considered will be addressed in writing in the Determination Regarding Responsibility.

- Before concluding the hearing, the Complainant and the Respondent will be allowed to make statements to the panel regarding the information presented during the Hearing and why the party believes that a determination should or should not be made that the College's Title IX Policy was violated by the Respondent. These statements may not exceed 10 minutes in length. Advisors are not permitted to make these statements on behalf of the Complainant or Respondent and may not address the panel during this time, although a party may confer with their Advisor.

The Hearing will be recorded in full and may take place through videoconference or any other type of simultaneous audio/video broadcast. Upon the request of either party, a hearing scheduled to take place in person may be rearranged to take place by videoconference in full or just as to a party or witness.

4. Relevance

a. Relevant Evidence or Testimony

The Hearing Committee is required to allow presentation of and consider all evidence or testimony that is relevant to the allegations at issue. "Relevant" means that the evidence tends to prove or disprove the allegations of the Formal Complaint or is closely related to the matters under discussion.

b. Evidence or Testimony that Is Not Relevant

The following evidence or testimony is always considered not relevant (or is *per se* not relevant):

- Any party's medical, psychological, and similar treatment records without the party's voluntary, written consent.
- Any information protected by a legally recognized privilege without a voluntary waiver.
- Information or evidence regarding the Complainant's sexual predisposition.
- Information or evidence regarding the Complainant's prior sexual behavior, subject to the following exceptions:
 - Evidence of prior sexual behavior is relevant if offered to prove someone other than the respondent committed the alleged offense; or
 - Evidence of prior sexual behavior is relevant if it is specifically about the complainant and the respondent and is offered to prove consent.

- Party or witness statements that have not been subjected to cross-examination at the Hearing.
 - If a party or witness does not submit to cross-examination at the live hearing, the Hearing Committee cannot rely on the ANY statement of that party or witness in reaching a determination regarding responsibility, unless the statement itself constitutes a violation of the College’s Title IX Policy (such as a sexually harassing remark). This rule prohibits considering any “hearsay” described by a party or witness in their testimony at the Hearing.
 - If a party’s advisor asks a relevant question of another party or a witness, and the party or witness declines to respond to the question, then the Hearing Committee may not rely on any statement made by that party or witness. This prohibition does not apply to questions asked by members of the Hearing Committee.
 - Members of the Hearing Committee may not draw an inference as to the Respondent’s responsibility based upon any party or witness’s refusal to answer a relevant question.

However, any evidence or witness testimony that is not relevant as discussed above may be excluded from the Title IX Investigative Report by the Title IX Investigator or from the hearing by the Chair of the Hearing Committee. The basis for any decision to exclude evidence or witnesses at a Hearing, where objected to by a party, will be addressed in writing in the Determination Regarding Responsibility.

c. Other Factors Considered in Determining Relevance

Evidence or testimony may be determined to be relevant or not relevant, in the Chair’s discretion, based upon the following reasons, which are not exhaustive.

- Evidence or witness testimony may be not relevant if it is excessively duplicative of other evidence or testimony.
- Evidence or witness testimony may be relevant, even if it:
 - Is more prejudicial than its probative value;
 - Concerns prior bad acts of a party; or
 - Constitutes character evidence of a party or testifying witness.

5. Cross-Examination

All witnesses, including the Complainant and Respondent, whose statements or testimony are to be considered by the Hearing Committee must answer all relevant questions asked of them during the hearing by the parties’ advisors. Only advisors and members of the Hearing Committee may ask questions during a proceeding. All questions must be asked and answered directly, orally, and in real time by a party’s advisor or members of the Hearing Committee, and

never by a party. If a Complainant or Respondent has not obtained assistance from an advisor prior to the hearing, an advisor will be provided by the College free of charge, solely for the purpose of asking questions on the party's behalf. Members of the Hearing Committee may interject relevant questions at any time, but may not prevent an advisor from asking a relevant question.

After a question is asked by an advisor, and before the question is answered by a party or witness, the Chair will determine whether the question is relevant and instruct the party or witness to answer.

If the Complainant or Respondent's advisor asks a question that is not relevant or a follow-up to a relevant question, the Chair will tell the Complainant, Respondent, or witness that the question is not relevant and they are not required to answer. The advisor may request and obtain a short explanation regarding why the Chair believes a question is not relevant. The basis for exclusion of any questions will be addressed in writing in the Determination of Responsibility.

6. Decorum and Courtesy During Proceedings

a. Rules of Decorum

The following rules apply to all proceedings undertaken as part of the College's Title IX Formal Process.

1. All parties, advisors, witnesses, Title IX personnel, and other members of the College community who are involved with a Title IX Formal Process must treat all others participating in the process with respect and courtesy.
2. Questions must be conveyed in a neutral, respectful tone.
3. No party, or any participant in a Formal Process, may act abusively or disrespectfully toward any other party or to witnesses, advisors, or decision-makers.
4. While an advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.
5. The advisor, the parties, and any other participant in the Formal Process, may not yell, scream, badger, or physically "lean in" to a party or witness's personal space. Advisors may not approach the other party or witnesses during a hearing without obtaining permission from the Chair, if a hearing is conducted in person.
6. During cross examination at a hearing, the advisor may not use profanity or make irrelevant ad hominem attacks upon a party or witness. Questions are meant to be investigative statements used to test knowledge or understand a fact, and they may not include accusations within the text of the question.
7. During questioning at a hearing, the advisor may not ask repetitive questions. This includes questions that have already been asked by members of the Hearing Committee or by the advisor in cross-examination. When the Chair determines a question is

repetitive or has been “asked and answered,” the Chair may instruct the advisor to stop asking the question and move on to the next question as applicable.

8. Parties and advisors will refer to other parties, witnesses, advisors, and the College’s staff and administrators using the name and gender used by the person and shall not intentionally misname or misgender that person in communication or questioning.

- b. Enforcement

During the investigative process, the Investigator or Title IX Coordinator will notify any person who has failed to comply with the Rules of Decorum of any violation of the Rules. Upon a second violation, the Title IX Coordinator will refer the person for disciplinary proceedings, as appropriate, and may undertake measures to prevent further violations of the Rules of Decorum during later stages of the Formal Process.

During a Hearing, the Chair enforces the Rules of Decorum and makes final decisions as to whether any person participating in the hearing is failing to comply with the Rules. The Chair will notify any person if they are in violation of the Rules. If that person engages in a second or further violation of the Rules of Decorum, the Chair shall have discretion to remove the offending person or allow them to continue participating in the hearing or other part of the process.

Where a party’s advisor is removed from a hearing for violating the Rules of Decorum, the party may select a different advisor of their choice, or must accept an advisor provided by the institution for the limited purpose of cross-examination at the hearing. Reasonable delays, including the temporary adjournment of the hearing, may be anticipated should an advisor be removed. A party cannot serve as their own advisor in this circumstance. The Chair will document any decision to remove an advisor in the written determination regarding responsibility. For flagrant, multiple, or continual violations of this Rule, in one or more proceedings, advisors may be prohibited from participating in future proceedings at the College in the advisor role on a temporary or permanent basis.

7. Determination Regarding Responsibility

- a. Timeframes for Determining Responsibility and Issuing Written Determination

Within 5 business days of the completion of a Hearing, the members of the Hearing Committee will deliberate and reach a decision regarding whether a **preponderance of the evidence** shows that the Respondent is responsible for a violation of the College’s Title IX Policy. If the Respondent is determined to be responsible, the Hearing Committee will assign appropriate sanctions for the Respondent and remedies for the Complainant.

Within 10 business days of the Hearing, a written Determination Regarding Responsibility will be prepared by the Chair with assistance from members of the Hearing Committee and

transmitted to the Title IX Coordinator. The Title IX Coordinator will transmit the Determination Regarding Responsibility to the parties simultaneously.

b. Contents of the Determination Regarding Responsibility

The Determination Regarding Responsibility will contain the following information:

1. Identification of the allegations potentially constituting Sexual Harassment from the Formal Complaint;
2. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications provided to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination, including an assessment of the credibility of each witness to present testimony at the Hearing;
4. Conclusions regarding the application of the College's Title IX Policy to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
6. Description of any sanctions imposed on the Respondent and whether remedies will be provided to the Complainant; and
7. Information about the appeal process.

c. Sanctions

If the Respondent is found responsible, the Hearing Committee may assign to the Respondent any disciplinary sanction provided in the Student Handbook or Faculty Handbook, as applicable, based upon the severity of the violation. For students, the sanction may include expulsion from the College, but any sanction of expulsion or suspension in excess of 8 semesters must be approved by the Vice President for Student Development.

d. Remedies

If the Respondent is found responsible for a violation of the College's Title IX Policy, remedies will be provided to the Complainant. Remedies are designed to maintain the complainant's equal access to education and may include the same measures provided to the Complainant as supportive measures. However, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent. Remedies are not disclosed to the Respondent, except to the extent the Respondent's participation is necessary to implement a remedy.

8. Appeals

a. Basis for Appeal

Either the Complainant or Respondent, or both, may appeal the decision of the Hearing Committee as set forth in the Written Determination Regarding Responsibility, on any of the following bases:

- There was a procedural irregularity that affected the outcome of the matter,
- There is newly discovered evidence that could affect the outcome of the matter;
- Title IX personnel or a Member of the Hearing Committee had a conflict of interest or bias that affected the outcome of the matter; or
- The sanctions imposed are substantially disproportionate to the severity of the violation.

b. Submission of Appeal

Any appeal of the Determination of Responsibility must be submitted in writing to the Title IX Coordinator no later than 10 days after the Determination Regarding Responsibility is transmitted to the Complainant and Respondent. Reasonable extensions of this deadline may be granted in the Title IX Coordinator's sole discretion. The appeal must include the basis for appeal and explanation as to why the basis applies to the Determination Regarding Responsibility.

Any newly discovered evidence or witness testimony must be attached to the appeal or described in sufficient detail to allow the Appeal Officer to determine whether the evidence would have changed the outcome. The Appeal Officer may deny an appeal on the basis that the evidence or testimony has not been provided or sufficiently described.

c. Response to Appeal

The Title IX Coordinator will notify the parties when an appeal is filed and provide the parties with the appeal documents as received by the Title IX Coordinator. The non-appealing party may submit a statement in support of or challenging the outcome in the Determination Regarding Responsibility within 10 days of receipt of the notice of the appeal. Reasonable extensions of this deadline may be granted in the Title IX Coordinator's sole discretion.

d. Appeal Officer

A College administrator or other impartial person with sufficient training will be selected by the Title IX Coordinator to serve as the Appeal Officer. The Title IX Coordinator, Title IX Investigator, and any member of the Hearing Committee cannot serve as the Appeal Officer.

e. Appeal Decision

The Appeal Officer will issue a decision regarding the appeal within 20 business days of the Title IX Coordinator's receipt of the appeal, subject to reasonable extensions in the sole discretion of the Title IX Coordinator. The decision will describe the result of the appeal and the rationale for

the result. The decision will be provided simultaneously to both parties by the Title IX Coordinator.

9. Alternate/Informal Process

At any time before a Determination Regarding Responsibility is made and transmitted to the parties, the College offers the parties the opportunity to resolve a report using the Alternate/Informal Process through mediation or another process that does not involve a full investigation and adjudication of the Formal Complaint. Both parties must give voluntary, informed consent in writing before the Alternate/Informal Process may be used, and any party may withdraw the written consent at any time before an agreement is reached and signed by the parties. If consent is withdrawn, the Formal Process will recommence.

Upon receipt of signed consent to the Alternate/Informal Process, the Title IX Coordinator will appoint a trained, impartial person to serve as the Informal Resolution Coordinator. The Informal Resolution Coordinator will review the Formal Complaint and meet individually with each party. The party may be accompanied by an advisor of their choice to the meeting.

The Informal Facilitator will then make a determination of appropriate informal resolution, put the determination and a brief rationale for the determination in writing, and present it to the parties. Up until a final determination is reached and agreed to by the parties, either party may withdraw their consent to the Alternate/Informal Process. Once a final determination is presented to both parties and agreed to by them, the matter is closed, non-appealable and the Formal Process will not be re-initiated. Please note that by law, the respondent is presumed not responsible for the alleged conduct and a formal determination regarding responsibility cannot be made without completing the Formal Process.

The determination of appropriate informal resolution will be final when it is signed by both parties and the Informal Facilitator.