



Holmes Community College Sexual Harassment Policy
P&P: Section I Accreditation and Compliance - 1.7

Revised Fall 2020
In Response to the 2020 U.S. Department of Education
Title IX Regulations Addressing Sexual Harassment

Resource Contact Information

Holmes CC Title IX Coordinator Dr. Teresa Mackey (662) 472-9249
Holmes CC Director of Human Resources Julia Brown, SHRM-CP, PHR (662) 472-9011

Immediate Emergency Assistance **911**
Mississippi Department of Public Safety (601) 987-1212
Mississippi State Coalition Against Sexual Assault (MSCASA) (888) 987-9011
Rape, Abuse and Incest National Network (RAINN) (800) 656-4673
Catholic Charities Diocese of Jackson (601) 326-3774
Jackson Rape Crisis Center Office (601) 366-0750 or Crisis Line (601) 982-7273

Goodman Campus

Medical and Counseling

Bartee Family Health Clinic – Goodman (662) 472-2970
Life Help Mental Health Center – Lexington (662) 834-1709 or (866) 453-6216
University Hospital – Lexington (662) 834-0440

Law Enforcement

Holmes CC Campus Police (601) 940-0089
Goodman Police Department (662) 472-2272
Holmes County Sheriff's Department (662) 834-1511

Ridgeland Campus

Medical and Counseling

Angel Wings Outreach Center (866) 847-5802
Baptist Medical Clinic – Madison (601) 605-3858
St. Dominic Hospital – Jackson (601) 200-2000
Three Oaks Behavioral (601) 991-3080

Law Enforcement

Holmes CC Campus Police (601) 605-3333
Ridgeland Police Department (601) 856-2121
Madison County Sheriff's Department (601) 859-2345

Grenada Campus

Medical and Counseling

Catherine Booth Center (800) 898-0834
Family Health Clinic (662) 226-0110
Life Help Mental Health (662) 226-1112
University of Mississippi Medical Center – Grenada (662) 227-7000

Law Enforcement

Holmes CC Campus Police (662) 809-6845
Grenada Police Department (662) 227-3455
Grenada County Sheriff's Department (662) 227-2877

Attala Center

Law Enforcement

Kosciusko Police Department (662) 289-3131
Attala County Sheriff's Department (662) 289-5556

Yazoo Center

Law Enforcement

Yazoo City Police Department (662) 746-1131
Yazoo County Sheriff's Department (662) 746-5611

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I. Introduction

Holmes Community College is committed to maintaining a safe and healthy educational and work environment in which no member of the College community is, on the basis of sex, sexual orientation, or gender identity, excluded from participation in, denied the benefits of, or subjected to discrimination in any College program or activity.

This Sexual and Harassment Policy is designed to ensure a safe and non-discriminatory educational and work environment and to meet legal requirements, including: Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in the College's programs or activities; relevant sections of the Violence Against Women Reauthorization Act; Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment; and Mississippi laws that prohibit discrimination on the basis of sex. It does not preclude application or enforcement of other College policies.

It is the policy of the College to provide educational, preventative, and training programs regarding sexual harassment; to encourage reporting of incidents; to prevent incidents of sexual harassment from denying or limiting an individual's ability to participate in or benefit from the College's programs; to make available timely services for those who have been affected by discrimination; and to provide prompt and equitable methods of investigation and resolution to stop discrimination, remedy any harm, and prevent its recurrence. Violations of this policy may result in the imposition of sanctions up to, and including, termination, dismissal, or expulsion, as determined by the appropriate officials at the College.

II. Definition of Sexual Harassment

The term "sexual harassment" as used in this policy refers to conduct on the basis of sex that falls within one or more of the following categories:

1. Quid Pro Quo Harassment occurs when an employee of the College conditions the provision of an aid, benefit, or service of the College upon an individual's participation in unwelcome sexual conduct.
2. Hostile Environment Harassment occurs when conduct on the basis of sex is sufficiently severe, pervasive, and objectively offensive, as determined by a reasonable person, that it effectively denies a person equal access to the College's programs or activities.
3. Sexual Violence refers to sexual assault, dating violence, domestic violence, or stalking. For purposes of this policy, these terms are defined as follows:
 - a. *Sexual assault* refers to any sexual act directed against another person, forcibly and/or against that person's will, or not forcibly or against the person's will where the victim is incapable of giving consent. This includes rape, sodomy, sexual assault with an object, nonconsensual fondling, incest, and statutory rape, as these terms are defined by the FBI Uniform Crime Reporting System.

Sexual conduct is considered to be against a person's will where that person has not given consent as defined by this policy. Sexual conduct is considered forcible where it occurs by means of physical force or coercion as defined by this policy.

- b. *Domestic violence* refers to any felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under applicable domestic violence laws, or by any other person against an adult or youth victim who is protected from that person's acts under applicable domestic or family violence laws.
- c. *Dating violence* refers to physical violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.
- d. *Stalking* refers to engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. Stalking violates this policy when it is undertaken, at least in part, for a sexual purpose.

Sexual harassment violates this policy where it occurs at any campus or facility operated by the College, or in connection with any program or activity of the College.

The procedures described herein apply only to conduct that meets the above definition. Nothing in this policy restricts the ability of the College to take disciplinary or other corrective action in response to any conduct of a sexual nature that violates any other College policy or rule.

III. Definition of Consent

Consent refers to words or actions that clearly show an active, knowing, and voluntary agreement to engage in a particular sexual activity. Consent is determined objectively. This means that an individual is deemed to have given consent when a reasonable person, under the particular circumstances of the encounter, would understand the individual's words and/or actions as indicating the required agreement.

Consent may be withdrawn at any time by words and/or actions that clearly show the individual no longer wishes to participate. Silence and/or the absence of resistance by themselves are not consent. Consent to engage in sexual activity in the past by itself is not consent to future sexual activity. Consent to engage in sexual activity with one person is not consent to engage in sexual activity with another person.

1. **Physical force or coercion**: There is no consent when a person submits to sexual activity due to physical force or the threat of physical force. Likewise, there is no consent when a person intentionally uses coercion to cause another person to agree to sexual activity.

Physical force refers to physical contact with any person, by means of one's own body or an object, for the purpose of causing bodily harm or injury, or of forcibly constraining movement. Coercion is threatening an adverse consequence that is sufficiently severe as to prevent a reasonable person from exercising free will in the decision whether to consent. Examples of coercion may include but are not limited to threatening self-harm if a person does not agree to sexual activity, threatening to "out" another person's sexual orientation, or threatening an adverse employment action. Coercion is not merely words of persuasion one might reasonably use to seek voluntary consent to sexual activity.

2. **Incapacity or impairment:** There is no consent if a person is mentally or physically incapacitated or impaired such that he or she cannot understand the fact, nature, or extent of the sexual situation. This includes impairment or incapacitation due to alcohol or drug consumption if it prevents the person from having such an understanding, as well as being asleep or unconscious. It also includes instances in which a person lacks the required understanding due to medical conditions, or cognitive or other disabilities.

In some instances, a person may give what appears to be consent, despite being incapacitated. For example, a person may speak despite having “blacked out.” In such cases, the objective standard for consent applies, meaning that a policy violation occurs unless a reasonable individual under the particular circumstances would have believed that the incapacitated person’s actions signaled active, knowing, and voluntary agreement to sexual activity. Even if this objective standard is satisfied, if the other individual was actually aware of the person’s incapacity, there is no consent.

3. **Age:** There is no consent for purposes of this policy where a person is too young to give effective consent under applicable law. Under Mississippi law, persons under fourteen cannot give effective consent to sexual activity with any older person, where the age difference is greater than twenty-four months. Persons between the ages of fourteen and sixteen cannot give consent to sexual activity with any older person where the age difference is greater than thirty-six months.

IV. Reporting Sexual Harassment

The College strongly encourages anyone who has experienced or witnessed sexual harassment to report the incident through the procedures in this policy. Properly reporting the incident allows the College to take steps to ensure the safety of the complainant and others and to provide support services. Any person may submit a report against any other person for sexual misconduct on a HCC campus, in connection with any HCC program or activity, and/or involving a member of the College community.

1. **Emergency Assistance**

If you are in immediate physical danger or need emergency medical care, CALL 911.

Your safety is the first priority. The options for assistance listed below can provide a quick response, but they cannot provide the immediate physical presence necessary to assist you if you are in danger. If you believe you are in immediate physical danger or if you need immediate medical assistance, ***call 911***. Police and/or an ambulance will be dispatched to assist you as necessary. College officials, if not alerted by your 911 call, can be alerted once you are safe.

2. **Reporting to the College**

Whom should I contact?

The College’s Title IX Coordinator is responsible for overseeing compliance with Title IX and other laws that address sexual harassment. The Coordinator oversees investigations and disciplinary procedures in cases of sexual misconduct, as well supportive measures and assistance for those who report such misconduct. The simplest and most direct route to submit a formal report to the College is to contact the Title IX Coordinator, Dr. Teresa Mackey, who may be contacted by phone at (662) 472-9429 or email at compliance@holmescc.edu.

As discussed below, to be considered, all written requests to the Title IX Coordinator must be submitted via email to the address listed in this policy.

If a person does not wish to report directly to the Title IX Coordinator, he or she is encouraged to contact one of the following officials, who also can provide assistance:

Vice-President of Goodman Campus	(662) 472-9024
Vice-President of Grenada Campus	(662) 227-2304
Vice-President of Ridgeland Campus	(601) 605-3301
Vice-President of Academic Affairs	(662) 472-9035
Vice-President of Career Technical Education	(601) 605-3313
Vice-President of eLearning	(662) 472-9162
Vice-President of Student Affairs	(662) 472-9067
Vice-President of Workforce	(601) 605-3315
Human Resources Director	(662) 472-9011

3. Mandatory Reporting

All college employees are considered Mandatory Reporters for purposes of this policy unless specifically exempted herein, or specifically exempted via the procedure outlined below.

Mandatory Reporters are required to notify the Title IX Coordinator when they learn of sexual harassment against any student, employee, applicant for admission or employment, or guest or visitor on campus.

- ***Reporting should be prompt.*** A Mandatory Reporter should report an incident of sexual harassment to the Title IX Coordinator as soon as is practical under the circumstances.
- ***Reporting is not discretionary.*** The obligation to report sexual harassment is not discretionary. A Mandatory Reporter may not, for example, decide not to report alleged harassment because he or she believes it is not sufficiently serious, or because he or she does not believe it happened. These are decisions for the Title IX Coordinator and appropriate College officials to make.
- ***Independent investigations are prohibited.*** College employees, departments, organizations, and other units must not undertake their own independent investigations of sexual harassment in lieu of the procedures herein, or undertake any response that in the judgement of the Title IX Coordinator interferes with or conflicts with the response under this policy.
- ***Tell the reporting person what will happen next.*** A Mandatory Reporter should tell the person informing them of sexual harassment (1) that he or she will be informing the Title IX Coordinator of the incident; (2) why he or she is sharing this information—i.e., his or her obligation to inform those on campus in a position to respond; and (3) that the College will contact the person to provide additional information and support.
- ***Do not share the information with others.*** Once you have informed the Title IX Coordinator, your reporting duties are complete. You may not share the information with anyone else. If your supervisor or someone you report to expects to be notified of such reports, you may inform them that you have relayed a complaint to the Title IX Coordinator, and that they may contact the Coordinator directly with questions or concerns.

4. Confidential Options

The following list, including but not limited to, identifies external agencies of possible assistance (also refer to page 1):

Mississippi State Coalition Against Sexual Assault (MSCASA)	(888) 987-9011
Rape, Abuse and Incest National Network (RAINN)	(800) 656-4673
Catholic Charities Diocese of Jackson	(601) 326-3774
Jackson Rape Crisis Center	Office (601) 366-0750 or Crisis Line (601) 982-7273
Bartee Family Health Clinic – Goodman	(662) 472-2970
Life Help Mental Health Center – Lexington	(662) 834-1709 or (866) 453-6216
University Hospital – Lexington	(662) 834-0440
Angel Wings Outreach Center	(866) 847-5802
Baptist Medical Clinic – Madison	(601) 605-3858
St. Dominic Hospital – Jackson	(601) 200-2000
Three Oaks Behavioral	(601) 991-3080
Catherine Booth Center	(800) 898-0834
Family Health Clinic	(662) 226-0110
Life Help Mental Health	(662) 226-1112
University of Mississippi Medical Center – Grenada	(662) 227-7000

5. Reporting to Law Enforcement Agencies

The reporting procedures in this policy are not intended as a substitute for reporting sexual misconduct to law enforcement agencies. Sexual misconduct may involve violations of the law. Members of the College community always retain the right to report sexual misconduct to the police. However, reporting to law enforcement is never required under this policy.

In an emergency, Holmes Community College Campus Police and local police departments can be reached by calling 911. Non-emergency contact information for these agencies is as follows (also refer to page 1):

Goodman Campus

Holmes CC Goodman Campus Police	(601) 940-0089
Goodman Police Department	(662) 472-2272
Holmes County Sheriff's Department	(662) 834-1511

Ridgeland Campus

Holmes CC Ridgeland Campus Police	(601) 605-3333
Ridgeland Police Department	(601) 856-2121
Madison County Sheriff's Department	(601) 859-2345

Grenada Campus

Holmes CC Grenada Campus Police	(662) 809-6845
Grenada Police Department	(662) 227-3455
Grenada County Sheriff's Department	(662) 227-2877

Attala Center

Kosciusko Police Department	(662) 289-3131
Attala County Sheriff's Department	(662) 289-5556

Yazoo Center

Yazoo City Police Department	(662) 746-1131
Yazoo County Sheriff's Department	(662) 746-5611

Reporting to the Campus Police will result in an initial notification to the Title IX Coordinator, as outlined below. Reporting to other law enforcement agencies will not trigger such notification unless and until that agency elects to share the information with College officials or until you make a report as outlined in this policy.

Making a report under this policy is independent of any criminal investigation or proceedings. Thus, you may report to the College, a law enforcement agency, or both. The College, in its discretion, may not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation or disciplinary proceedings. The College may take interim measures, if necessary, for the safety and security of the College community.

Individuals who bring reports of sexual misconduct to the College will be informed of their options for reporting to law enforcement agencies. If requested, the College will take reasonable steps to assist the individual in reporting to law enforcement.

V. Investigation and Adjudication

All investigations, hearings, and disciplinary proceedings concerning alleged sexual misconduct will be conducted in a prompt, fair, and impartial manner under the procedures outlined herein by individuals who have received appropriate training.

The Title IX Coordinator will oversee the investigation and adjudication process. All written requests to the Coordinator described herein must be submitted to the email address listed above in order to be considered.

1. Initial Notification

The College's duty to respond begins when the Title IX Coordinator is notified of alleged sexual misconduct. Upon receiving such notification, the Title IX Coordinator will promptly contact the alleged victim, who is referred to herein as the "complainant." A person who has been reported to be the perpetrator of conduct that could constitute sexual misconduct is referred to as the "respondent." After a formal complaint has been submitted, the complainant(s) and respondent(s) in a particular matter are referred to as the "parties."

Upon initial notification, the Coordinator will inform the complainant of the availability of supportive measures as described below, the ability to report to law enforcement, and the procedure for filing a formal complaint of sexual misconduct.

2. Supportive Measures

Supportive measures are non-disciplinary services offered by the College as it deems appropriate to the complainant or respondent in order to restore or preserve equal access to the College's programs, activities, services, or benefits.

The Title IX Coordinator will inform the complainant—and where a formal complaint has been filed, the respondent—of the availability of supportive measures, and will coordinate their implementation along with other College personnel as needed. If a party wishes to request specific supportive measures, it is his or her responsibility communicate that request to the Title IX Coordinator.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, providing an escort or other security, mutual orders mandating

no contact between individuals, changes in housing or work locations, leaves of absence, monitoring of certain areas, or other similar measures.

Supportive measures are available whether or not a complainant elects to file a formal complaint, and may be implemented or maintained without regard to the outcome of a complaint. They are non-punitive in nature and must not unreasonably burden the other party. The College will endeavor to keep information concerning supportive measures as private as is reasonably possible, but may determine it is necessary to share this information with certain individuals in order to effectively implement needed assistance.

3. Formal Complaint

A formal complaint is required before the College will initiate an investigation of sexual misconduct. A formal complaint is a document, which must be signed by or otherwise reflect the authorization of the complainant, that alleges sexual misconduct against a person and requests that the College investigate the matter. It may be submitted in person or via electronic means.

If a complainant does not submit a formal complaint, the Title IX Coordinator may determine that the matter nonetheless warrants investigation under this policy. In such cases, the Title IX Coordinator will initiate and sign the formal complaint. In such cases, the alleged victim—not the Coordinator—is still considered the complainant, and will continue to receive any notifications required hereunder. Alternatively, the Coordinator may determine that the matter warrants investigation under another College policy, and may refer the matter to appropriate personnel.

Where the College has received multiple complaints of sexual misconduct that allegedly involve one or more of the same parties and/or arise out of the same facts or circumstances, the Title IX Coordinator shall have discretion to consolidate these complaints for purposes of proceedings under this policy. Where consolidation occurs, the parties will be notified in writing.

The College does not limit the timeframe for filing a complaint. The College encourages complaints to be filed as soon as reasonably possible following an alleged sexual harassment because the College's ability to gather adequate information may be limited where a significant length of time has elapsed between an incident and the filing of a complaint. Further, the College's ability to complete its processes may be limited with respect to Respondents who are no longer attending or are no longer employed by the College.

4. Written Notification of Parties

Upon receipt of a formal complaint, the College will provide written notice to the accused party and the complainant. This notice will include a description of the allegations potentially constituting sexual misconduct, including the parties involved, the date, and the location, if these details are known. The written notice will inform the parties of the following:

- Respondents are presumed not responsible until proven otherwise, and a determination regarding responsibility is made at the conclusion of the investigation and adjudication process.
- Parties may have an advisor of their choice who may be, but is not required to be, an attorney. Where a party selects his or her own advisor, the party will bear any associated cost. Alternatively, if a party does not have an advisor, the College will provide one of its choosing at no charge upon written request.
- Parties will have an equal opportunity to inspect and review evidence.
- Supportive measures are available and may be requested by contacting the Title IX Coordinator.

- It is a violation of College policies to knowingly or recklessly make false statements or submit false information in connection with the investigation or adjudication process, and such conduct is subject to disciplinary action.

If in the course of an investigation, the College decides to investigate any separate and distinct allegation of sexual misconduct not included in the initial notice, it will provide written notice of the additional allegation(s) to the parties.

5. Emergency Removal

In rare cases where the College has reason to believe a party to a sexual misconduct investigation poses an immediate threat to the physical health or safety of another individual, the College may remove that party from campus, or from any program, activity, or facility, on an emergency basis.

Removal of a student will occur only where the appropriate officer of the College determines that the student poses an immediate threat to the physical health or safety of another person following an individualized safety and risk analysis. Where a student is removed by these means, he or she will receive notice and an opportunity to challenge the decision as promptly as is reasonably possible.

Nothing in this policy restricts the ability of the College to place an employee on leave pending the outcome of an investigation of sexual misconduct or other issues.

6. Investigation

The Title IX Coordinator or their designee will investigate the allegations raised in a formal complaint. The Coordinator will make reasonable good faith efforts to obtain relevant evidence, both potentially inculpatory and exculpatory.

Notification of Parties

Prior to any interview, meeting, or hearing with the complainant or respondent, the College will provide written notice of the date, time, location, participants, and purpose at least 24 hours in advance.

Role of Investigators

The Title IX Coordinator will select an appropriate person or persons to conduct the investigation. In exceptional cases, an external investigator may be used. In all cases, the investigator will have received proper training on issues relating sexual misconduct, College policies, relevant laws and regulations, proper investigation procedures and techniques, impartiality and avoiding conflicts of interest, and other relevant issues. The investigator may regularly consult with the Title IX Coordinator on the progress of the investigation and potential issues that require additional follow-up.

Role of Advisors

The parties may be accompanied to any interview, meeting, or hearing by the advisor of their choosing, who may be but is not required to be an attorney. While the College will make reasonable efforts to address procedural or other questions raised by advisors, the parties are expected to speak for themselves with respect to the substantive allegations. It shall be the responsibility of the party, not the College, to inform any advisor and secure their attendance at any such interview, meeting, or hearing.

Where a party does not have an advisor for the investigation stage of the process, the College will provide one at no charge upon written request to the Title IX Coordinator. It is the responsibility of the party to submit this request as early as possible. Except where appointed by the College under this policy, no College employee may serve as an advisor in any proceeding under this policy. For more information about advisors at live hearings, please see below.

Inspection of Evidence

The College will provide all parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is related to the allegations. This normally will occur via the investigative report process outlined herein. If a party wishes to review evidence prior to the dissemination of the report, or at any other point, he or she should make that request in writing to the Title IX Coordinator.

Confidential Materials

The College will not access, consider, disclose, or otherwise use in connection with an investigation a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a professional capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the College obtains that party's voluntary, written consent to do so.

Conflicts of Interest

If a party believes that an investigator, advisor, or other personnel involved in the investigation process has a conflict of interest or bias that would prevent him or her from serving fairly and impartially, he or she should promptly inform the Title IX Coordinator. If a party believes the Title IX Coordinator has such a conflict or bias, he or she should inform the Executive Vice President. The appropriate official will review the matter and take remedial action where appropriate, which may include assigning alternate personnel.

Acceptance of Responsibility

A respondent is presumed not responsible until proven otherwise by sufficient evidence. However, if a respondent wishes to accept responsibility for some or all of the allegations against them, he or she may do so at any point prior to the conclusion of the live hearing.

Where a respondent wishes to accept responsibility prior to a live hearing, he or she should communicate that fact to the Title IX Coordinator in writing. The Coordinator will inform all parties of the acceptance of responsibility and will issue a proposed set of sanctions and/or remedies.

If all parties agree in writing to waive a live hearing on the matter and accept the proposed sanctions and/or remedies, the matter will be concluded and not subject to appeal. If all parties do not agree, the Coordinator will schedule a hearing before the adjudicator to determine the appropriate sanction and/or response, and to decide any remaining allegations or other issues.

Where a respondent wishes to accept responsibility after a live hearing has commenced, it is his or her responsibility to clearly state as much to the adjudicator. An adjudicator may consider a party's acceptance of responsibility as one factor in determining the appropriate sanctions and/or responses.

7. Investigative Report

At the conclusion of the investigation, the Title IX Coordinator will prepare an investigative report summarizing relevant policy provisions and potentially relevant evidence, including potential witness testimony and potential exhibits to be introduced at a hearing.

Scope of Recommendations

The report may make recommendations as to what testimony, exhibits, or other evidence are or are not relevant to a determination regarding responsibility, but the final authority for such determinations will rest with the adjudicator. The report will not take any position or make any recommendation as to the ultimate question of responsibility or non-responsibility.

Distribution of Preliminary Report

Not less than twenty-one calendar days prior to a hearing, the Title IX Coordinator will provide a preliminary copy of the investigative report to each party and their respective advisors, along with a copy of any relevant documents or exhibits. The parties will have ten calendar days to submit a written response noting any objections, proposed corrections, or proposed additions.

Final Report

The Coordinator will consider any written responses from the parties in preparing a final version of the investigative report, which will be provided to the parties, their advisors, and the adjudicator at least five calendar days prior to the hearing.

8. Dismissal and Referral Under Other Policies

Allegations of sexual misconduct will be investigated initially under the procedures outlined in this policy. In some cases, the evidence uncovered may indicate that dismissal of a complaint or allegation under this policy is appropriate. Where dismissal occurs, nothing in this policy prevents a matter from being referred for investigation, disciplinary action, or other remedial steps under any other College policy.

Mandatory Dismissal

If at any point prior to a determination on responsibility the Title IX Coordinator determines that a complaint or allegation, if proven, (i) would not meet the definition of sexual harassment set forth herein, (ii) did not occur on an HCC campus or otherwise in connection with a College program or activity; (iii) did not occur against a student, employee, or other person who at the time of the filing of the formal complaint was participating in or attempting to participate in a College program or activity; or (iv) did not occur against a person in the United States, the Title IX Coordinator will dismiss the complaint or allegation.

Mandatory dismissal means that no further investigation or adjudication proceedings will occur under this policy. Where a complaint or allegation is dismissed on this basis, and the dismissal is not reversed via appeal, this precludes any formal discipline or sanction under this policy for the covered conduct, unless additional information is subsequently revealed that the Title IX Coordinator determines could not have

been reasonably known by the relevant party and would materially alter the nature or severity of the allegations.

Discretionary Dismissal

Where the Title IX Coordinator determines that specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to a complaint or allegation, the Coordinator may at his or her discretion dismiss the complaint or allegation. Discretionary dismissal does not preclude the filing of a future complaint on the same subject matter, which may be investigated where the Title IX Coordinator determines that specific circumstances preventing investigation have changed.

Voluntary Dismissal

If at any time prior to a determination on responsibility a complainant notifies the Title IX Coordinator in writing of his or her desire to withdraw the formal complaint or any allegation therein, the Coordinator may at his or her discretion dismiss the complaint or allegation.

The College will give careful consideration to a complainant's request to dismiss a formal complaint, but may determine that dismissal is inappropriate if it would impair the College's ability to ensure a safe and non-discriminatory environment. Factors considered in making this determination include, but are not limited to:

- The risk of the accused committing other acts of sexual misconduct, such as where other complaints have been made against the same person.
- The risk of sexual misconduct of a similar nature, such as where multiple assaults occurred at the same location or involving the same group.
- The use of physical violence and/or weapons.
- The involvement of multiple alleged perpetrators.
- Allegations of threats or retaliation by the accused against the complainant or others.
- The reporting party's age.
- The parties' rights and/or the College's obligations under the Family Educational Rights and Privacy Act (FERPA) and other applicable privacy laws.

Referral Under Other Policies

Where the Title IX Coordinator determines that the dismissal under this policy is appropriate, he or she will determine whether the matter should be referred for further proceedings under any other College policy. Where the Coordinator determines that such proceedings may be warranted, the matter will be referred to the appropriate College personnel.

Notification of Dismissal

Where the Coordinator determines that dismissal under this section is warranted, he or she will promptly notify the parties in writing of the dismissal, the grounds for the decision, and the availability of and procedure for appeal.

Appeal of Dismissal

Where a party feels that a decision to dismiss has been made in error, he or she may appeal the dismissal under the procedures set forth in this policy.

9. Hearings

The determination of responsibility or non-responsibility for Title IX Sexual Harassment and other sexual misconduct matters will be made via a live hearing process.

Standard of Proof

The standard of proof for adjudicating any sexual misconduct charge is a preponderance of the evidence standard. In other words, the evidence must show that it is more likely than not that the alleged sexual misconduct occurred. Unless and until sufficient evidence is presented, the respondent is presumed not responsible.

Adjudicators

The determination of responsibility or non-responsibility is made by the adjudicator, which may be an individual or a panel of individuals selected by the College. The adjudicator will have received appropriate training on College policies, procedures for fair and impartial decision-making, pertinent laws and regulations, and other relevant issues. An adjudicator shall not have served as an investigator, coordinator, advisor, or informal resolution facilitator in the matter.

Prior to the hearing, the parties will be notified of the identity of the adjudicator. If any party has reason to believe that an adjudicator has a conflict of interest or bias that would prevent him or her from deciding the matter fairly and impartially, he or she should communicate that belief to the Title IX Coordinator as early as possible, and in all events at least five days prior to any hearing.

In addition to the adjudicator, the Title IX Coordinator may be present at the hearing to advise as needed on matters of policy or procedure. The Coordinator may not serve as an adjudicator or make recommendations as to the ultimate finding of responsibility or non-responsibility.

Presentation of Evidence

All parties will be permitted to present relevant testimony and other evidence at the hearing. Each party's advisor will be permitted to ask any party or witness relevant questions and follow up questions. Parties may not directly question other parties or witnesses.

Before a party or witness answers a question, the adjudicator must determine whether the question is relevant, and signal to the party or witness that he or she should answer. Where the adjudicator determines that a question is not relevant, he or she should state briefly the basis for that determination.

Witnesses may be called by any party or by the adjudicator. The adjudicator shall have discretion to structure the order in which witness testimony and other evidence are presented, provided that all parties are afforded equal opportunity to present relevant evidence and question all witnesses.

Relevance of Evidence

Testimony and other evidence are relevant where the adjudicator determines that they pertain to the allegations under review and are reasonably likely to make some material fact more or less probable. Questions are relevant where the adjudicator determines that they are reasonably likely to elicit a response that meets the definition of relevant testimony.

Questions and evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant, unless offered to prove that someone other than the respondent committed the alleged conduct, or such questions or evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Testimony

All parties and witnesses are expected to be present and to provide truthful and accurate testimony at any hearing under this policy. It is a violation of this policy to knowingly or recklessly make false statements or submit false information in connection with the investigation or adjudication process, and such conduct is subject to disciplinary action by the College.

A party or witness's failure to testify or submit to cross-examination means that no statement by that party or witness may be considered in reaching a determination of responsibility. The adjudicator may not base a determination of responsibility or non-responsibility solely on the fact that a party or witness refuses to testify or answer cross-examination questions, but may consider such refusal as one factor and/or consider the absence of sufficient evidence due to other statements being excluded from consideration.

Hearing Advisors

Each party may be accompanied to any interview, meeting, or hearing by the advisor of their choosing, who may be but is not required to be an attorney. While the College will make reasonable efforts to address procedural or other questions raised by advisors, the parties are expected to speak for themselves with respect to the substantive allegations. Because cross-examination questions at a live hearing may be asked only by an advisor, and not by the parties themselves, it is strongly recommended that each party secure the participation of an advisor at the hearing stage.

As noted above, where, if a party does not have an advisor, the College will appoint one at no cost upon written request. It is the responsibility of the party to submit a request for a hearing advisor as early as possible. If the request is submitted less than ten calendar days prior to a scheduled hearing date, the College cannot guarantee the availability of an advisor at the hearing. In all cases, it remains the responsibility of the party to inform the advisor and secure their attendance at any hearing or other meeting.

Remote Hearings

Hearings normally will occur in-person with the parties, advisors, and adjudicator in the same location. However, upon timely written request, the College will permit any party to participate remotely by means of videoconferencing or similar technology. In such cases, the arrangement of the videoconference must be such that all parties and the adjudicator can see and hear any party or witness while that party or witness is testifying.

Recording of Hearings

Hearings under this policy shall be recorded via audio or audiovisual means and maintained as part of the file. The recording shall be made available to the parties for inspection and review upon request. Unauthorized copying or recording of hearing proceedings is prohibited.

10. Determination as to Responsibility

Upon conclusion of the hearing, the adjudicator shall issue a written determination regarding responsibility or non-responsibility for the charges. This determination will include:

- A statement of the allegations considered.
- A description of the procedural steps taken from the receipt of the formal complaint through the determination on responsibility, including a description of the notifications to the parties, interviews and other methods of evidence gathering, and hearings.
- Findings of relevant fact.
- Conclusions applying relevant College policies to the facts.
- A statement of the result for each separate allegation, including any sanctions or other remedies, and the rationale for the same.
- A statement of the grounds and procedures for appeal.

The adjudicator will transmit this determination to the Title IX Coordinator, who will provide a copy to all parties simultaneously. The Title IX Coordinator also may communicate all or part of the determination to any College personnel deemed necessary to carry out any sanction or remedy, or to ensure the safety of the community.

11. Appeals

Any party may appeal from the final determination on responsibility or from the dismissal of any complaint or specific allegation under this policy.

Grounds for Appeal

Permissible grounds for appeal are: (1) a procedural error that likely affected the outcome of the matter; (2) new evidence that was not reasonably available at the time of the determination or dismissal that likely would affect the outcome of the matter; or (3) evidence of an impermissible conflict of interest or bias for or against complainants or respondents generally, or an individual complainant or respondent specifically, on the part of the Title IX Coordinator, investigator, or adjudicator.

Appellate Procedure

Either party may appeal by submitting a written notice to the Title IX Coordinator within seven calendar days of issuance of the written determination on responsibility or the notice of dismissal. Upon receipt of a notice of appeal, the Coordinator will notify all parties in writing that an appeal has been filed.

The Coordinator will invite parties to submit written statements of their positions on appeal. The Coordinator shall have discretion to determine the order and length of statements and other procedural matters, provided that all affected parties will have equal opportunity to submit relevant information.

Appellate Adjudicators

The appellate adjudicator will have received appropriate training on College policies, procedures for fair and impartial decision-making, and relevant laws and regulations. Appellate adjudicators will not have participated in the hearing or other pre-appeal proceedings in any matter before them.

Appellate Decision

The appellate adjudicator will decide the appeal based on the hearing record, the parties' written statements on appeal, and applicable College policies. He or she may consult the Title IX Coordinator concerning policy or procedural matters or other College personnel as appropriate, but should not confer with parties, witnesses, investigators, or the hearing adjudicator.

The appellate adjudicator may (1) affirm the decision, sanction, or remedy in full or in part; (2) reverse any ruling and remand the matter for further proceedings; and/or (3) in cases where an appellate ruling leaves no material questions of fact, render a final decision as to responsibility, sanctions, or remedies.

The adjudicator will issue a written decision explaining the outcome of the appeal and the rationale. That decision will be transmitted to the Title IX Coordinator, who will provide a copy to all parties simultaneously. The decision of the appellate adjudicator is final and not subject to further appeal.

12. Timeframe

Absent extenuating circumstances, the College will strive to conduct a full investigation of a complaint of sexual misconduct and adjudicate the complaint within ninety calendar days of the filing of the formal complaint.

VI. Informal Resolution

In some instances, the parties may prefer to address sexual misconduct through informal means, such as mediation. Where appropriate, the College will make reasonable efforts to facilitate this process.

1. Requesting Informal Resolution

Parties interested in informal resolution should communicate that request to the Title IX Coordinator. A request for mediation or other informal resolution may be made in writing by either party at any point after a formal complaint is filed and prior to a determination on responsibility.

2. Determination of Appropriateness

If a party requests informal resolution and the Title IX Coordinator determines it is potentially appropriate, the Coordinator will provide all parties with written notice of the request, including a description of the allegations covered, an explanation that informal resolution is strictly voluntary and must be agreed to by all relevant parties, and an explanation of the relevant provisions of this section. Informal resolution will not proceed unless all relevant parties indicate their agreement in writing after receiving this notice.

Informal resolution is not permitted where there is an allegation that a College employee engaged in sexual misconduct toward a student. The Coordinator shall retain discretion to deny any request for informal resolution or to terminate such proceedings at any point if he or she determines that they are no longer appropriate.

3. Informal Resolution Process

The nature of an informal resolution process will vary depending on the circumstances and wishes of the parties. The process is strictly voluntary. No one, whether complainant, respondent, or third party, will be compelled to participate in any portion.

Informal resolution efforts always will be supervised by a properly-trained College employee. The Title IX Coordinator will oversee the informal resolution process, and will be informed of the outcome, but neither the Title IX Coordinator nor any investigator or adjudicator involved in the matter will be present at any informal resolution meeting.

4. Record Keeping

To facilitate candid exchange of information, statements made by participants in any informal resolution process are confidential and not admissible in any hearing or other disciplinary proceeding under this policy. The College will maintain records of the outcome of informal resolution proceedings, but will not maintain records of the specific contents of any such proceeding or statements made therein.

5. Effects of Informal Resolution

Once an informal resolution process has begun, any party is free to withdraw at any time prior to the conclusion of the process, and should communicate that request to the Title IX Coordinator.

The process concludes when the Title IX Coordinator issues a written notice to the parties that a resolution has been reached, or alternatively that no resolution can be reached. Where no resolution can be reached or where any necessary party withdraws, the College will resume the formal complaint process.

Where a resolution is reached and agreed to in writing by the parties, this will preclude any formal discipline or sanction under this policy for the covered conduct, unless additional information is subsequently revealed that the Title IX Coordinator determines could not have been reasonably known by the relevant party and would materially alter the nature or severity of the allegations.

VII. Possible Sanctions

Sanctions for violations of this policy must be determined based on the facts of each individual case. The following possible sanctions are applicable to all College students and employees when a finding or a violation of the sexual harassment policy has been determined, or when frivolous or malicious charges have been brought. A first offense could be grounds for dismissal, and more than one sanction may be imposed for any single offense. Sanctions are distinct from non-punitive measures, such as orders barring contact or changes in housing or work assignments.

1. Sanctions for Students

Sanctions for student respondents may include but are not limited to:

- Warning, oral or written
- Reprimand in writing
- Probation
- Loss of campus housing
- Suspension
- Expulsion

2. Sanctions for Employees

Sanctions for employee respondents may include but are not limited to:

- Written or oral warning
- Formal reprimand placed in the respondent's permanent file
- Suspension without pay
- Dismissal

VIII. Resources and Information

Individuals seeking information or advice can expect to learn about resources (also see page 1) available at the College and elsewhere that provide counseling and support. Individuals will be advised about the steps involved in pursuing an informal resolution or filing a formal complaint. Individuals also have the right to file a criminal complaint.

IX. Intentionally False Reporting

While the College recognizes the rarity of intentionally false reports of sexual harassment, submitting a deliberately false report or providing false information in bad faith is prohibited under this policy and is grounds for disciplinary action. A report is made in bad faith when the person making it actually knew it was false or made it with reckless disregard for the truth. A report is not made in bad faith merely because an adjudicator finds an accused party not responsible.

Where a false report or statement has been made in bad faith, disciplinary action by the College against the person making it is not retaliation within the meaning of this policy. This exception applies solely to official disciplinary action by the College. It does not authorize retaliation of any kind by any individuals, department, or organization, even where bad faith is found.

X. Prohibition on Retaliation

Retaliation against individuals for reporting sexual misconduct, or for participating in any capacity in proceedings under this policy, is strictly prohibited. Retaliation should be reported immediately to the Title IX Coordinator, and is an independent basis for disciplinary action, regardless of the outcome of the underlying complaint.

For purposes of this policy, retaliation includes any intimidation, coercion, discrimination, threat, or other action against any individual that would deter a reasonable person from reporting, testifying, assisting, or cooperating with an investigation or proceeding. Constitutionally protected speech, without more, does not constitute retaliation under this policy. Sanctions imposed for making a deliberately false report or providing false information in bad faith in the course of an investigation or hearing do not constitute retaliation.

XI. Confidentiality

The College recognizes the right of parties to a Title IX proceeding to discuss the matter in good faith with individuals they believe may be able to provide pertinent information. However, the parties may not seek to intimidate, harass, or coerce any person into altering their testimony or presenting inaccurate information. Likewise, parties may not engage in any form of harassment or retaliation against any party, witness, or administrator involved in the Title IX process.

XII. Coordination with Law Enforcement Authorities

In the event that a formal complaint addresses behavior or actions that are under review by law-enforcement authorities, the Title IX Coordinator, in light of information from law-enforcement authorities may assess and/or postpone any portion of the investigation under the policy so that it does not compromise the criminal investigation. However, the College is under no obligation to await the conclusion of a law enforcement investigation and may proceed under this policy while such an investigation is pending.

XIII. Training

It is the College's policy to provide training to all personnel involved in the procedures described herein with sufficient training on pertinent laws, regulations, rules, techniques for effective and fair investigation and/or adjudication, techniques for avoiding bias, and other relevant issues as appropriate.

It is the College's policy to provide students and employees with training and education on the provisions of this policy and their duties under it. This includes but is not limited to a clear statement of the College's prohibition on sexual harassment, information on the definition of consent, and information on how to seek help if sexual harassment occurs.

XIV. Coordination with Other Policies

Where alleged conduct is subject to sanction both under this policy and another College policy or rule, the procedural requirements of this policy will apply. Where there is any procedural or other difference between the requirements of this policy and another applicable College policy, this policy will control. Nothing in this policy prevents imposition of any sanction or remedy for conduct of a sexual or discriminatory nature that does not meet the definition of sexual harassment herein. Nothing in this policy prevents the imposition of non-punitive measures to ensure the safety or productivity of any College employee or student.