

**Title IX and Sex Discrimination  
Policy and Procedures**

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# **Title IX and Sex Discrimination Policy and Procedures**

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## **I. Philosophy, Purpose, and Scope**

Frederick Community College (“FCC” or the “College”) has a responsibility to establish and maintain a learning and working environment that is free from sex discrimination, including sexual misconduct, and harassment, and to provide support for students experiencing pregnancy or related conditions that respects and protects the dignity and value of every member of the College community.

This Policy Against Sex Discrimination has been established for the purpose of ensuring education, prevention, reporting, and response to sex discrimination concerns, including those that fall under Title IX. This Policy and Procedures supersedes and replaces any existing policies or procedures related to Title IX published in any other College documents.

Title IX of the Education Amendments of 1972 states: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

This Policy and Procedures applies to sex discrimination, including 2020 Title IX sexual harassment and other sex-based harassment not covered by those regulations. Please note that only Title IX Sexual Harassment can be adjudicated through the formal complaint process.

Title IX sexual harassment is a form of sex discrimination prohibited by federal and state discrimination laws, including Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act, and is strictly prohibited by FCC.

In addition to Title IX prohibited conduct, FCC will operate its education program or activity in a nondiscriminatory manner free of discrimination based on sex, including sexual orientation and gender identity. Some key areas are: recruitment, admissions, and counseling; financial assistance; athletics; sex-based harassment, which encompasses sexual assault and other forms of sexual violence; treatment of students experiencing pregnancy or related conditions; treatment of LGBTQI+ students; discipline; single-sex education; and employment. Please see our [Non-Discrimination Policy](#) for further information.

(<https://www.frederick.edu/jobs-hr/policies-and-procedures/policyproceduresdocuments/non-discrimination.aspx>)

### **Student Rights**

Generally: Rights of students alleging or responding to a violation of the Title IX Sexual Harassment Policy and Procedures include:

1. Treatment with dignity, respect, and sensitivity by officials of the College during all phases of the disciplinary proceedings:
2. A fair and impartial investigation
3. Disciplinary proceedings and resolutions that are prompt and equitable and provide an opportunity for the alleged complainant and respondent to be heard
4. Timely written notice of specified matters, including the student’s rights and responsibilities under the Title IX and Sex Discrimination Policy and Procedures, information regarding other civil and criminal options, and the range of potential sanctions associated with the alleged violation

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5. Participation in the disciplinary proceedings, including access to the case file and evidence.
6. Assistance by an advisor of choice, including a licensed attorney, an advocate supervised by an attorney, or a trained advocate throughout the disciplinary proceedings, as specified; and the presence of no more than two people, including an advisor of the student's choice, an attorney, or an advocate at any hearing, meeting, or interview during the disciplinary proceedings.

FCC is required by the Clery Act to keep, disclose and publish a campus safety report about reportable crime on and near FCC premises, in any College facility, or on College property. The Clery Act also requires FCC to issue a warning to the community in certain circumstances. In the statistical disclosures and warnings to the community, FCC will ensure that a complainant's name and other identifying information is not disclosed. The Coordinator will refer information to the Director of Public Safety appropriate for a determination about Clery-related actions, such as disclosing crime statistics or sending campus notifications.

### **II. Definitions for the Purpose of this Policy and Procedures**

- A. **“Advisor”** Each party has the right to choose and consult with an advisor of their choice at their own expense. The advisor may be any person, including a friend, family member, therapist, union representative, or an attorney. FCC will not limit their choice of advisor. Parties in this process may be accompanied by an advisor of choice to any meeting or proceeding to which they are required or are eligible to attend.

Except where explicitly stated by this policy, advisors shall not participate directly in the process. FCC will provide the parties equal access to advisors; any restrictions on advisor participation will be applied equally.

The advisor may not represent, advocate, or speak on behalf of a complainant or respondent except during a Title IX hearing where the advisor may conduct cross-examination of parties and witnesses. An advisor may not disrupt or impede any resolution proceeding.

- B. **“College community”** refers to trustees, students, and all employees of the College as well as any independent contractors or other third parties to the extent articulated under contractual agreements.
- C. **“Complainant”** is any individual who has reported being or is alleged to be impacted by Prohibited Conduct as defined by this policy, and who was participating in a FCC program or activity at the time of the alleged misconduct.
- D. **“Confidential Employee”** refers to an employee whose communications are privileged or confidential (at the time of disclosure) under federal or state law
- E. **“Consent”** refers to a knowing, voluntary and affirmatively communicated willingness to participate in a particular sexual activity or behavior. Only a person who has the ability and capacity to exercise free will and make a rational, reasonable judgment can give consent. Consent may be expressed either by words and/or actions, as long as those words and/or actions create a mutually understandable agreement to engage in specific

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sexual activity. It is the responsibility of the person who wants to engage in sexual activity to ensure that they have consent from the other party, and that the other party is capable of providing consent.

1. Lack of protest or resistance is not consent. Silence, in and of itself, cannot be interpreted as consent. For that reason, relying solely on non-verbal communication can lead to misunderstanding.
  2. Previous relationships, including past sexual relationships, do not imply consent to future sexual acts.
  3. Consent to one form of sexual activity does not automatically imply consent to other forms of sexual activity.
  4. Consent must be present throughout sexual activity and may be withdrawn at any time. If there is confusion as to whether there is consent or whether prior consent has been withdrawn, it is essential that the participants stop the activity until the confusion is resolved.
  5. Consent cannot be obtained by use of physical force, threats, intimidating behavior, or coercion.
- F. **“Days”** refers to business days when FCC is in normal operation.
- G. **“Disciplinary Sanction”** refers to the possible outcomes for a respondent that is found responsible for violating the Title IX policy. Examples of disciplinary actions include but are not limited to; disciplinary warning, suspension and expulsion.
- H. **“Disclosure or Report”** is oral or written notice that may be made by anyone, whether they learned about conduct potentially constituting Prohibited Conduct under this policy, or whether they personally experienced such conduct. A person making a disclosure or report may or may not be seeking to file a Formal Complaint or initiate an investigation.
- I. **“Education program or activity”** includes locations, events, or circumstances over which the College exhibits substantial control over both the respondent and the context in which the sexual harassment occurred.
- J. **“Formal complaint”** means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment.

Formal complaints may be filed with the Title IX Coordinator by mail or by electronic mail. A “document filed by a complainant” means a document or electronic submission (such as electronic mail) that contains the complainant’s physical or digital signature or otherwise indicates that the complainant is the person filing the formal complaint. Although third parties may not file formal complaints, the Title IX Coordinator may sign a formal complaint based upon a third-party complaint or based upon an informal complaint by a complainant. A formal complaint signed by the Title IX Coordinator does not make the Title IX Coordinator a party in the grievance process described below. The Title IX Coordinator may sign a formal complaint over a complainant’s objections in order to ensure that the College does not respond with deliberate indifference to sex discrimination, including sexual harassment, in its programs and activities.

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- K. **“Finding”** is a written conclusion by a preponderance of the evidence, issued by an Investigator or Decisionmaker, that the evidence did or did not support that the conduct occurred as alleged.
- L. **“Jurisdiction”** refers to the extent of FCC’s power to enforce this Title IX policy. This includes locations, events, or circumstances over which the College exercises substantial control over both the respondent and the context in which the Title IX violation occurs.
- M. **“Mandatory reporter”** is a person with the obligation to report to the Title IX Coordinator any information about conduct that could reasonably constitute sex discrimination. At FCC mandatory reporters include all College trustees and all full and part-time employees of the College, including but not limited to administrators, supervisors, faculty, adjunct faculty, support staff, safety and security staff, coaches, or trainers.
- N. **“Medically Necessary Leave of Absence”** refers to an absence from the classroom or extracurricular activities because of a qualifying condition and considered necessary and documented by an appropriate health care professional.
- O. **“Medical necessity”** refers to a determination made by a health care provider of a student’s choosing.
- P. **“No-Contact Directive”** is a document issued by a FCC administrator that is designed to limit or prohibit contact or communications between the parties.
- Q. **“Notification” or “written notice”** refers to written hard copy delivered by US certified mail, restricted delivery, or overnight carrier signature required, delivery confirmed, or by College email with “delivery receipt” requested.
- R. **“Party”** refers to a complainant or respondent.
- S. **“Parenting”** refers to a student who is a parent that is an actual, potential, foster, guardian, adoptive, non-birth parent, and/or caretaker of a child.
- T. **“Pregnancy or related condition discrimination”** refers to (but is not limited to) treating a student affected by pregnancy or a pregnancy related condition less favorably than similar individuals not so affected, and includes a failure to provide legally mandated leave or reasonable modifications or adjustments.
- U. **“Pregnant or Parenting Student”** refers to those applying for admission, admitted, or enrolled in classes who have a Qualifying Condition. This applies to those who are pregnant and/or parenting. This policy provides benefits to all parents in addition to birth-parents. “Pregnancy and pregnancy-related conditions” refers to (but are not limited to) pregnancy, childbirth, false pregnancy, termination of pregnancy, miscarriage, conditions arising in connection with pregnancy, stillbirth, infant death, perinatal loss, fertility treatments, conditions related to menstruation such as endometriosis, menopause and recovery from any of these conditions, in accordance with federal law.
- V. **“Preponderance of the evidence”** refers to evidence that is of greater weight or more convincing than the evidence to the contrary; evidence which shows that something is more likely than not to be true or 50.1% likely to have occurred.

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- W. **Pregnancy or related conditions**” include pregnancy, childbirth, termination of pregnancy, lactation; medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; and recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
- X. **“Remedies”** means measures provided, as appropriate, to a complainant or any other person FCC identifies as having had their equal access to FCC’s education program or activity limited or denied by sex discrimination or other prohibited conduct covered by this policy. These measures are provided to restore or preserve that person’s access to the education program or activity after FCC determines that sex discrimination occurred. Only the complainant will be informed of any remedies pertaining to them. Some examples are academic support and/or opportunity to retake a class or resubmit work or time extensions on course or degree completion, or non-academic support such as counseling, or changes to work assignments or locations. The Title IX Coordinator is responsible for the implementation of remedies.
- Y. **“Respondent”** means an individual who has been reported to be the perpetrator of conduct that could constitute prohibited conduct under this policy.
- Z. **“Secured College tracking system”** refers to the official College system used to record and track reports of student violations of prohibited conduct and concerning behavior. The secured College tracking system contains documentation of reported violations, interventions, resolutions, and appeals. The Title IX Coordinator is responsible for the oversight and management of reported Title IX sexual harassment violations in the secured College tracking system.
- AA. **“Student”** refers to an individual who is registered at the College, either full or part-time, in a credit or continuing education class or classes who has either paid or made arrangement for payment of tuition and/or fees at the time of the alleged incident.
- BB. **“Supportive measures”** means individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to preserve equal access to the College education program or activity, including measures designed to protect the safety of all parties or the College educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, escort services, restrictions on contact between one or more parties, changes in work locations, leaves of absence, increased security and monitoring of schools or other buildings operated by the College, and other similar measures. The College will maintain as confidential any supportive measures provided to complainants and respondents, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.
- CC. **“Title IX Coordinator”** refers to the individual designated by the President of the College to address student and employee concerns: 1) oversee the College response to Title IX reports and complaints, and identify and address any patterns or systemic problems revealed by such reports and complaints; 2) coordinate, conduct, and/or

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delegate sexual harassment investigations; 3) oversee, review content, and, in collaboration with other College offices, develop the training plan, and conduct training for all mandatory reporters on sexual harassment issues; 4) ensure that appropriate policies and procedures are in place for responding to Title IX complaints against faculty, staff, and students; 5) work with local law enforcement to ensure coordinated responses to sexual harassment cases; and 6) maintain accurate documentation and logs related to the Maryland Higher Education Commission reports. Section V.D and V.E of this Policy addresses the definition and responsibility of the Title IX Coordinator for Students and Deputy Title IX Coordinator for Employees separately.

1. The Title IX Coordinator is responsible for receiving all reports of sexual harassment and maintaining all records related to Title IX sexual misconduct. Sexual harassment records for students are maintained in the secured College tracking system. Sexual harassment records for employees are maintained by the Title IX Coordinator in the Human Resources Office.
  2. Title IX makes it illegal to discriminate because of sex, which includes discrimination on the basis of pregnancy, childbirth, false pregnancy, miscarriage, termination of pregnancy, or related conditions, including recovery. Title IX also ensures the right to take medically necessary leave and to be free of harassment, intimidation, or other discrimination because of pregnancy-related conditions. Further, any rules concerning parental, family, or marital status may not apply differently based on sex. If necessary, the President will designate an alternate individual who is qualified to serve as Title IX Coordinator.
- DD. **“Title IX Hearing Panel”** refers to a group assembled by a third party whose responsibility is investigating formal complaints of Title IX violations. Members of the Title IX Hearing Panel will be free from conflict of interest and bias and trained to serve impartially as set forth in this Policy and Procedure prior to presiding over a live hearing.
- EE. **“Workdays”** refers to Monday through Friday and does not include weekends, holidays, scheduled breaks, or other days the College is closed.

### **III. Definitions of Prohibited Conduct Under This Policy**

This section includes the conduct prohibited by this Policy that can be resolved through the available processes described in this Policy. Prohibited Conduct must occur within an FCC Educational Program or Activity and inside of the United States to constitute Title IX Sexual Harassment. Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Retaliation are types of Prohibited Conduct individually, even if not meeting the definition of Title IX Sexual Harassment because they occur outside of the education program or activity or outside the United States, or the parties are not participating or seeking to participate in the education program or activity.

- A. **Discrimination on the Basis of Sex:** Discrimination is defined as treating members of a protected category less favorably because of their actual or perceived membership in that category or as having a policy or practice that adversely impacts the members of one protected category more than others. Discrimination on the basis of sex includes

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discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

- B. **Title IX Sexual Harassment:** Title IX Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following:
1. **Quid Pro Quo:** An FCC employee conditions the provision of an aid, benefit, or service of FCC on an individual's participating in unwelcome sexual conduct; or
  2. **Title IX Hostile Environment:** Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the FCC's education program or activity; and
  3. **Sexual Assault, Dating Violence, Domestic Violence, Stalking**
- C. **Sexual assault:** an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Specifically, this includes:
1. **Rape:** The penetration, no matter how slight, of the vagina or anus with anybody part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
  2. **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
  3. **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  4. **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.
- D. **Dating violence:** 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 the following factors:
1. The length of the relationship;
  2. The type of relationship; and
  3. The frequency of interaction between the persons involved in the relationship.
- Emotional and psychological abuse do not constitute violence for the purposes of this definition.
- E. **Domestic violence:** felony or misdemeanor crimes of violence committed by a person who:
1. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of FCC, or a person similarly situated to a spouse of the victim;
  2. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
  3. Shares a child in common with the victim; or



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4. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

Emotional and psychological abuse do not constitute violence for the purposes of this definition.

- F. **Stalking:** Engaging in a course of conduct, on the basis of sex, directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress.
- G. **Sexual coercion:** The application of unreasonable pressure, including emotionally or physically manipulative actions or statements, or direct or implied threats, in order to compel the person to engage in sexual activity.
- H. **Sexual exploitation:** The abuse or exploitation of another person's sexuality without consent, for the perpetrators own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited. Sexual Exploitation includes, without limitation, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person; causing the prostitution of another person; electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person, whether authentic or created or enhanced through technology; allowing third parties to observe sexual acts; engaging in voyeurism; distributing intimate or sexual information about another person; and/or knowingly transmitting a sexually transmitted infection, including HIV, to another person.
- I. **Non-Title IX Sexual Harassment:** Non-Title IX Sexual Harassment is unwelcome conduct based on sex or gender that is so severe or pervasive that it has the purpose or effect of unreasonably interfering with a person's employment, academic performance or participation in the FCC's programs or activities, or creates a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive.
- J. **Retaliation:** Any materially adverse action taken against an individual because they were involved in the disclosure, reporting, investigation, or resolution of a report of Prohibited Conduct. Retaliation includes threats, intimidation, harassment, coercion, discrimination, violence, or any other conduct against any person by FCC, a student, or an employee or other person authorized by FCC to provide aid, benefit, or service under FCC's education program or activity, for the purpose of interfering with any right or privilege secured by this policy or by law, including Title IX or its regulations. Adverse action does not include perceived or petty slights, or trivial annoyances.

The prohibition against retaliation applies to any individuals who participate (or refuse to participate) in any manner in an investigation, or hearing, and to any student who refuses to participate in an investigation, proceeding, or hearing.

Retaliation may occur even where there is a finding of "not responsible" under this policy. Good faith actions lawfully pursued in response to a report of Prohibited Conduct are not Retaliation. Retaliation should be promptly reported to the Title IX Coordinator and will be investigated and resolved by Human Resources or Student Conduct, as applicable, unless consolidated in accordance with this Policy.

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### **IV. Responsible Senior Leader and Responsible Office**

Vice President for Talent and Culture Human Resources

Vice President for Student Experience Student Experience

### **V. Entities Affected by this Policy and Procedures**

The College community

### **VI. Training, Education, and Prevention**

FCC is committed to educating the College community regarding the prevention and elimination of sex discrimination, including sexual harassment. Creating an environment free from sexual harassment is the responsibility of all members of the College community. The College is committed to fostering a climate in its education programs and activities that is free from sexual harassment through training, education, and prevention programs, and through policies and procedures that promote prompt reporting, prohibit retaliation, and promote timely, fair, and impartial investigation and resolution of sex discrimination including sexual harassment cases.

- A. Preventing sex discrimination and sexual harassment begins with effective training. All employees will have completed Title IX training by November 30 of each year or within three weeks of their hire date and are required to update their training every year. Additional mandatory trainings are arranged by the Deputy Title IX Coordinator for Employees/Vice President for Talent and Culture for all faculty and staff who serve as Title IX Hearing Panel Members or individuals who may assist in Title IX investigations in accordance with Title IX regulations.
- B. The name, office address, and phone number of the Title IX Coordinator(s) is posted on bulletin boards throughout the College, on the College website, and in College publications, including the Student Handbook.
- C. To ensure that students understand their rights and responsibilities under Title IX, the College provides awareness, knowledge and skill-building workshops, and events. Specific education on alcohol and drug abuse, sexual assault, and dating violence is provided. These events include, but are not limited to:
- D. Title IX brochures are available and posted for students describing College and community resources, confidential services, and support for students who deal with sexual abuse and violence.
- E. Clery Act data is posted on our website in the Annual Safety and Security Report, which is updated in October of each year.
- F. A dedicated webpage with resource information and relevant links is available on the College website.
- G. The College offers online Title IX training for all students through Safe Colleges.com. Certificates of completion are issued to those who successfully complete the training.
- H. The Title IX Coordinator is responsible for the development of the Student Training/Education/Prevention plan (in coordination with other College offices) and

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oversight of education, training, and prevention programs on Title IX sexual harassment for students.

- I. The Title IX Coordinator is responsible for the development of the Training/Education/Prevention plan (in coordination with other College offices) and oversight of education, training, and prevention programs on Title IX for employees, including safety and security staff. In compliance with Title II of the Crime Awareness and Campus Security Act of 1990, the College provides information related to crime statistics and security measures to current students and employees, and to any applicant and registrant for enrollment or applicant for employment upon request. Crime statistics are available on the College website at <http://www.frederick.edu/faculty-staff/campus-security.aspx>.

### **VII. Confidentiality**

The College recognizes the importance of confidentiality. All reasonable efforts will be made to ensure the confidentiality of information received to protect the complainant, respondent, and the College community.

If a person requests that their name not be disclosed or that the College not investigate or take action related to a report of, the Title IX Coordinator will determine whether or not such a request can be honored while still providing a safe and nondiscriminatory environment for all students, faculty, and staff.

Confidentiality does not apply to minors (under the age of 18). State mandatory reporting laws require mandatory reporters to report child neglect and abuse that is suspected, observed, or in some cases, learned about through a third party, to the local department of social services or to a local law enforcement agency.

### **VIII. Reporting Sex Discrimination, Including Sexual Harassment and other Sexual Misconduct**

#### **A. Employee Reporting Obligations**

1. All employees, with limited exceptions for Confidential Employees as identified by FCC, are required to promptly provide to the Title IX Coordinator all complaints or reports of sex discrimination, including sex-based harassment, to the Title IX Coordinator and share all information reported or made available to the employee. When providing this information to the Title IX Coordinator, the employee must include their own name and contact information, and all known details about an incident, which may include, if known, the dates, times, locations, names of involved individuals and the nature of the incident. Aside from this reporting obligation, employees will, to the fullest extent possible, maintain the privacy of an individual's information, consistent with FERPA.
2. FCC also encourages employees who themselves experience sex discrimination to bring their concerns to the Title IX Coordinator, though they are not required to do so.

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3. All Maryland citizens should report suspected child abuse or neglect to the local department of social services or to a local law enforcement agency. Ensuring the safety of Maryland's children is an obligation shared by all citizens and organizations. If you are a health care practitioner, educator, human service worker or a law enforcement officer, you are required by law to report both orally and in writing any suspected child abuse or neglect. You should report your suspicion to the local department in the jurisdiction where you believe the abuse or neglect took or is taking place. Oral reports should be made immediately. A mandated reporter must also complete a written report within 48 hours of contact which discloses the suspected abuse or neglect. <https://dhs.maryland.gov/child-protective-services/reporting-suspected-child-abuse-or-neglect/local-offices/>

### **B. Reporting to the College**

All reports of violations of this policy will be taken seriously and in good faith. The Title IX Coordinator will provide information and guidance regarding how to file a formal complaint with FCC and/or local law enforcement, as well as information and assistance about what course of action may best support the individual(s) involved and how best to address the complaint.

Every reasonable effort will be made to maintain the privacy of those making a report to the extent possible. In all cases, FCC will give consideration to the party bringing forward a report with respect to how the matter is pursued. FCC may, when necessary to protect the community, initiate an investigation or take other responsive actions to a report, even when the person identifying a concern chooses not to participate in a resolution process and/or requests that FCC not investigate.

Employees, students, guests, or visitors who believe that this policy has been violated should promptly contact the Coordinator or another member of the Title IX Office as follows:

[Title IX Reporting Form](https://cm.maxient.com/reportingform.php?FrederickCC&layout_id=5)  
([https://cm.maxient.com/reportingform.php?FrederickCC&layout\\_id=5](https://cm.maxient.com/reportingform.php?FrederickCC&layout_id=5))

There is no timeline for making a report of sex discrimination, however, FCC encourages the prompt reporting of a complaint as the ability of FCC to pursue the complaint to conclusion may be hindered by the passage of time.

The College will be as thorough as possible in the assessment and investigation of anonymous reports.

### **C. Amnesty**

Any student who reports to the College or a law enforcement officer an incident of sexual assault, and/or participates in good faith as a witness in an investigation of a sexual assault will not be subject to the College Alcohol, Tobacco, Opioid, and Other Drug Use and Awareness Policy and Procedures, except for:

1. a mandatory intervention for substance abuse, if the College determines that the violation occurred during or near the time of the alleged sexual assault; and
2. if the College determines that the alcohol or drug violation was an act that was reasonably likely to place the health or safety of another individual at risk.

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### **False Reports**

The College condemns the deliberate filing of false reports of sexual harassment. If a person is found to have deliberately filed a false accusation, they will be subject to disciplinary measures in accordance with prescribed policies and procedures governing student or employee behavior. A report of sexual harassment that is made in good faith but is found to not be supported by the preponderance of the evidence, will not be considered a false report.

### **Privacy and Confidentiality**

FCC values the privacy of its students, employees, and other community members. Community members should be able to seek the assistance they need and access this policy without fear that the information they provide will be shared more broadly.

References made to privacy mean FCC offices and employees who cannot guarantee confidentiality, but will maintain privacy to the greatest extent possible, relaying information as necessary to investigate or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. FCC will limit the disclosure as much as practicable.

All activities under these procedures shall be conducted with the privacy interests of those involved. While FCC will take all reasonable steps to protect the privacy of individuals involved in a complaint, it may be necessary to disclose some information to individuals or offices on campus in order to address a complaint or provide for the physical safety of an individual or the campus. Thus, FCC cannot, and does not, guarantee that all information related to complaints will be kept confidential.

In order to maintain the privacy of evidence gathered as part of any resolution process, access to materials under the procedures in this policy will be provided only by a secure method and parties and advisors are not permitted to make copies of any documents shared or make use of the documents outside of the processes described in this policy. Parties may request to review a hard copy of materials, and FCC will make that available in a supervised or monitored setting. Inappropriately sharing materials provided during this process may constitute retaliation under this policy.

Individuals may speak confidentially with a Confidential Resource. Confidential Resources (e.g., licensed mental health care providers, physicians, clergy) may not report to Title IX Coordinator any identifying information about conduct that may violate FCC'S policies against sex discrimination without the written consent of the individual who supplied the information, unless required by law. Such disclosures will not be reported to the Title IX Coordinator or initiate any process under this policy.

### **Reporting to the Police**

If requested, the Title IX Coordinator will provide prompt assistance in notifying the appropriate law enforcement officials in collaboration with the College Security office. In cases of sexual assault/misconduct, individuals will be informed of their right to file criminal charges with the appropriate law enforcement official. The Frederick Police Department is located at 100 W. Patrick Street, Frederick, Maryland 21701, and the phone number is (301) 600- 2101. Mandatory reporters are required to promptly notify the Title IX Coordinator of any reports of sexual assault/misconduct brought to their

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attention. The Title IX Coordinator works collaboratively with the reporting party and any other mandatory reporters needed in responding to the alleged victim, making every effort to operate with discretion and maintain the privacy of the individuals involved.

Some Prohibited Conduct may constitute a violation of both the law and FCC policy. FCC encourages students to report alleged crimes promptly to local law enforcement agencies. All persons have the right to file with law enforcement, as well as the right to decline to file with law enforcement. The decision not to file shall not be considered as evidence that there was not a violation of FCC policy.

Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence. The standards for finding a violation of criminal law are different from the standards for finding a violation of this policy. Conduct may constitute Prohibited Conduct under this policy even if law enforcement agencies lack sufficient evidence of a crime and decline to prosecute.

Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. However, when a complaint is made to FCC as well as to law enforcement, FCC may delay its process if a law enforcement agency requests that FCC delay its process for a reasonable amount of time to allow law enforcement to gather evidence of criminal misconduct. Criminal or legal proceedings are separate from the processes in this policy and do not determine whether this policy has been violated.

All investigations and hearings under this policy will be thorough, reliable and impartial, and will seek to collect evidence and names of witnesses to gather information that is directly or substantially relevant to whether the alleged policy violation occurred, and will not be based on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

In the case of an emergency, where the physical well-being of a member of FCC community or the safety of FCC as an institution is threatened, any individual with such knowledge should promptly inform the Director of Campus Safety. FCC may take any immediate steps as may be necessary and appropriate under the circumstances to ensure the well-being of FCC community and FCC as an institution.

### **D. Response**

The following process will be used following the receipt of a report of Prohibited Conduct under this policy.

#### **1. Initial Contact**

Following receipt of a report alleging a potential violation of this policy, the Title IX Coordinator will contact the complainant to meet with the Title IX Coordinator for an initial intake and assessment meeting, and will provide the following:

- An invitation to meet to offer assistance and explain their rights, resources, and options under this policy;
- Access to this policy;

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- Information regarding available campus and community resources for counseling, health care, mental health, or victim advocacy. Upon request, information regarding legal assistance, visa and immigration assistance, student financial aid and other available services may be provided;
- The availability of Supportive Measures regardless of whether a formal complaint is filed and/or any resolution is initiated;
- The options for resolution (no action, prevention, agreement, investigation) and how to initiate such resolution processes;
- The right to notify law enforcement as well as the right not to notify law enforcement;
- The importance of preserving evidence and, in the case of potential criminal misconduct, how to get assistance from Campus Safety or local law enforcement in preserving evidence;
- The right to an advisor of choice, if applicable, during FCC proceedings under this policy including the initial meeting with the Title IX Coordinator
- A statement that retaliation for filing a formal complaint, or participating in the formal complaint process, is prohibited.
- Information on how to initiate the Investigation or Resolution-Based Agreement process.

### **2. Initial Intake & Assessment**

The Initial Assessment process seeks to gather information about the nature and circumstances of the report to determine whether this policy applies to the report and, if so, which resolution process may be appropriate, as well as which section of the resolution procedures apply based on the conduct and the status of the parties. The Title IX Coordinator may also determine that the provision of supportive measures only is the appropriate response under the policy. The initial assessment is not a finding of fact or responsibility. If the individual bringing forward the report is not the actual complainant, the Title IX Coordinator will limit communication to general information on policies and processes.

Should the complainant wish to file a formal complaint, the Title IX Coordinator will determine whether this policy applies and, if so, the appropriate process under this policy. The Title IX Coordinator will communicate to the complainant this determination.

If the information provided does not suggest a potential violation of this policy, the Title IX Coordinator will provide the complainant written notice that the matter is being referred for handling under a different policy, and/or to another appropriate office for handling.

### **3. Supportive Measures**

Supportive Measure are individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent. These

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measures are not punitive or disciplinary, and are provided without fee or charge to the complainant or respondent to:

- Restore or preserve that party's access to FCC's education program or activity, including measures that are designed to protect the safety of the parties or FCC's educational environment; or
- Provide support during FCC's resolution procedures or during an alternative resolution process.

Supportive measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; no-contact directives (which may be mutual or unilateral at the discretion of the Title IX Coordinator); and training and education programs related to sex-based harassment. Supportive measures are non-disciplinary and non-punitive. Supportive Measures will also be offered to respondents when they are notified of the allegations.

The College will respond to reported incidents of sexual assault by ensuring the opportunity for complainants to obtain the appropriate medical attention and transportation to the nearest designated hospital (Frederick Health Hospital) with the Department of State Police Sexual Assault Evidence Collection Kits.

Both parties are provided access to personal counseling through the Counseling and Wellness Office. In addition to providing counseling or taking immediate steps to protect the College community prior to any final investigative outcomes, effective corrective action may require interim measures.

Both parties will be advised of potential interim measures that may include, but are not limited to, the alteration of class/course schedules (including transfer to another section), permission to withdraw from and/or retake a class, permission to attend a class via alternative means (e.g., online or through independent study), the extension of assignment deadlines, voluntary leaves of absence, changes in work schedules, job assignments, and work locations, prohibited contact, and providing academic support services if such alternatives are feasible, consistent with College policies and procedures. Remedies for the broader student population extend beyond training, education, and prevention efforts already provided to include, but would not be limited to: designation of a member of the counseling staff to be on call and conduct climate checks.

Any Supportive Measures put in place will be kept confidential, except when doing so impairs the ability of the institution to provide the Supportive Measures.

FCC will offer and coordinate supportive measures as appropriate for the parties as applicable to restore or preserve their access to FCC's program or activity or provide support during FCC's alternative resolution process or resolution procedures. Prohibited Conduct under this policy have the right to request supportive measures from FCC regardless of whether they desire to file a formal complaint.



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A party may challenge FCC's decision to provide, deny, modify, or terminate supportive measures when such measures are applicable to them. An impartial employee will be designated to consider modification or reversal of FCC's decision to provide, deny, modify, or terminate supportive measures. When the individual providing Supportive Measures is a Deputy Title IX Coordinator or other individual identified by the Title IX Coordinator to provide Supportive Measures, the Title IX Coordinator will be designated to consider the challenge regarding supportive measures. The impartial employee will typically respond to the challenge within five (5) days.

The Title IX Coordinator has the discretion to implement or modify supportive measures. Violation of the parameters of supportive measures may violate existing codes or handbooks.

#### **4. Requests for Confidentiality or No Further Action**

When a complainant requests that FCC not use their name as part of any resolution process, or that FCC not take any further action, FCC will generally try to honor those requests. However, there are certain instances in which FCC has a broader obligation to the community and may need to act against the wishes of the complainant. In such circumstances, the Title IX Coordinator will notify the complainant in writing of the need to take action. The factors the Title IX Coordinator will consider when determining whether to act against the wishes of a complainant include:

- The complainant's request not to proceed with a formal complaint;
- The complainant's reasonable safety concerns regarding filing a formal complaint;
- The risk that additional acts of Prohibited Conduct would occur if a complaint is not initiated;
- The severity of the alleged Prohibited Conduct, including whether, if established, it would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- The age and relationship of the parties, including whether the respondent is an employee of FCC;
- The scope of the alleged Prohibited Conduct, including information suggesting an ongoing pattern of conduct or impacting multiple individuals;
- The availability of evidence to assist a Hearing Officer or decisionmaker in determining whether sex discrimination occurred; and
- Whether FCC could end the alleged prohibited conduct and prevent its recurrence without filing a formal complaint.
- Whether the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other persons, or that the conduct as alleged prevents FCC from ensuring equal access on the basis of sex to its education program or activity.

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### **5. Emergency Removal**

FCC retains the authority to remove a respondent from FCC's program or activity on an emergency basis, where FCC (1) undertakes an individualized safety and risk analysis, (2) determines that an immediate and serious threat to the health or safety of a complainant or any student, employee, or other individual arising from the allegations of Title IX Sexual Misconduct justifies a removal, and (3) FCC provides the respondent with notice of and an opportunity to challenge the decision immediately following the removal.

The College Behavioral Evaluation Response Team will be responsible for conducting the individualized safety and risk analysis in accordance with this subsection.

Emergency removals are not an appropriate action to address emotional or mental health needs, which should instead be addressed by supportive measures. All such removals must be made in accordance with other applicable laws, including but not limited to Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act.

The respondent may challenge the decision immediately following the removal, by notifying the Title IX Coordinator in writing. FCC will designate an impartial individual, not otherwise involved in the case, to consider the challenge to the removal and determine if the emergency removal was reasonable.

For all other Prohibited Conduct, FCC may defer to its interim suspension policies for students and administrative leave for employees.

### **6. Administrative Leave**

FCC retains the authority to place an employee respondent on administrative leave during a pending complaint process under this policy, with or without pay as appropriate. Administrative leave may be a supportive measure, emergency removal, or consistent with applicable law. Administrative leave implemented as a supportive measure or as emergency removal is subject to the procedural provisions above, including the right to challenge the decision to implement that measure.

Placement of any employee on such administrative leave must be made in accordance with other applicable laws, including but not limited to Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

### **7. Formal Complaints**

A formal complaint is required in order to proceed with a resolution process under this Policy. A formal complaint must be written, in paper form (hand delivered or by mail or shipping service) or electronically submitted and either signed or with another indication that it is being filed by the Complainant, the Complainant's parent or guardian, or by the Title IX Coordinator, and that alleges a violation of the Policy as defined above, by a covered person, within an FCC program or activity, and requesting that FCC investigate the allegations.

Where the Complainant is unable or unwilling to file a formal complaint, and there have been allegations of violations of this Policy involving covered persons in FCC's

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programs and activities, the Title IX Coordinator may file and sign a formal complaint. In that case, the Title IX Coordinator does not have the status of Complainant or party. A Complainant retains their rights even if they decline to participate, including but not limited to receiving notices, the opportunity to review evidence and the right to receive the final investigation report. The Title IX Coordinator will use discretion in these matters.

A formal complaint cannot be filed anonymously because the Respondent must be notified who is making the accusation against them. A person does not, however, need to file a formal complaint to obtain supportive measures. For supportive measures, the Complainant's identity may remain confidential to the extent practicable to implement the supportive measure.

In certain cases, the identity of the Respondent may not be known by the person filing the formal complaint. They may still file the formal complaint, and FCC may be able to better identify the Respondent.

### **8. Dismissal of a Formal Complaint**

Before dismissing a formal complaint, FCC will make reasonable efforts to clarify the allegations with the complainant.

FCC may dismiss a formal complaint brought under this policy, or any specific allegations raised within that formal complaint, at any time during the investigation or hearing, if:

- FCC is unable to identify the respondent after taking reasonable steps to do so;
- If specific circumstances prevent FCC from gathering evidence sufficient to reach a determination regarding the formal complaint or allegations within the formal complaint; or
- The respondent is not participating in FCC's education program or activity and is not employed by FCC;
- The complainant voluntarily withdraws their formal complaint in writing and the Title IX Coordinator declines to sign a formal complaint.

A formal complaint of Title IX sexual harassment must be dismissed when:

- The conduct alleged did not occur in Frederick Community College's education program or activity, or did not occur against a person in the United States; or
- The complainant voluntarily withdraws some but not all allegations in a formal complaint in writing, and FCC determines that, the conduct that remains alleged in the formal complaint would not constitute Title IX Prohibited Conduct under this policy; or
- FCC determines the conduct alleged in the complaint, even if proven, would not constitute Title IX Prohibited Conduct under this policy.

Upon dismissal, FCC will promptly notify the complainant in writing of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then FCC will notify the parties simultaneously in writing. If a dismissal

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of one or more allegations changes the appropriate decision-making process under these procedures, the Title IX Coordinator will include that information in the notification.

FCC will notify the complainant that a dismissal may be appealed on the basis outlined in the Appeals section. If dismissal occurs after the respondent has been notified of the allegations, then FCC will also notify the respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, FCC will follow the procedures outlined in the Appeals section of these procedures.

When a formal complaint is dismissed, FCC will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and,
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that prohibited conduct does not continue or recur within FCC's education program or activity.

A complainant who decides to withdraw a complaint or any portion of it may later request to reinstate it or refile it.

Parties may appeal the dismissal of a formal complaint as included below under Appeal Procedures.

### **9. Referrals for Other Misconduct**

FCC has the discretion to refer reports of misconduct not covered by this policy for handling under any other applicable FCC policy or code, such as the Code of Student Conduct, Complaint Policy and Procedures for Students, Complaint Policy and Procedures for Employees, Employee Misconduct Policy. As part of any such referral for further handling, FCC may use evidence already gathered through any process covered by this policy.

Should there be a conflict between the provision of this policy and other FCC policies, procedures, rules, regulations, or terms or conditions of employment, the provisions of this policy will govern unless specifically stated otherwise.

This policy and these procedures are separate from FCC'S Code of Student Conduct processes, by which FCC may bring a Conduct violation against a student for not adhering to FCC's policy according to the provisions found in [FCC's Student Code of Conduct](https://www.frederick.edu/jobs-hr/policies-and-procedures/policyproceduredocuments/code-of-student-conduct.aspx). (<https://www.frederick.edu/jobs-hr/policies-and-procedures/policyproceduredocuments/code-of-student-conduct.aspx>)

### **10. Consolidation of Cases**

FCC may consolidate reports under this policy as appropriate: for example, if there are multiple reports where the allegations of Prohibited Conduct arise out of the same facts or circumstances, or there are multiple reports with overlapping parties.

FCC also reserves the right to use this policy to adjudicate other allegations and conduct charges as defined by policies outside of the scope of this policy in instances

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when the conduct is associated with an alleged issue of Prohibited Conduct under this policy. The Title IX Coordinator will address these consolidated reports in collaboration and coordination with other appropriate offices, such as Student Services and Human Resources. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements set forth in this policy.

### **11. Student Withdrawal or Employee Resignation while Matters are Pending**

If a student or employee respondent permanently withdraws or resigns from FCC with unresolved allegations pending, FCC will consider whether and how to proceed with the resolution process. FCC will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s) and any ongoing effects of the alleged Prohibited Conduct

A student respondent who withdraws or leaves while the process is pending may not return to FCC without first resolving any pending matters. Such exclusion applies to all FCC campuses and programs.

An employee respondent who resigns with unresolved allegations pending is not eligible for rehire with FCC and the records retained by the Title IX Coordinator will reflect that status.

## **IX. Requesting modifications for Pregnant and Parenting Students**

Requests for modifications for Pregnant and Parenting Students (Applies to credit and CEWD courses. Reasonable modifications vary based on core requirements and learning outcomes of a specific class or program.)

A student in need of modifications should submit a request by completing the [Title IX reporting form](https://cm.maxient.com/reporting.php?FrederickCC) (<https://cm.maxient.com/reporting.php?FrederickCC>). If a student is unable to submit a report because of their condition, an appropriate representative of the student may contact the Title IX Coordinator or Deputy Title IX Coordinator on the student's behalf and the student may confirm the report when they become able to do so.

The Title IX Coordinator or Deputy Title IX Coordinator will engage an interactive process with the student/appropriate representative and College officials, including faculty members, Program Managers, and Department Chairs, to determine appropriate related services and/or academic modifications to provide for the student in light of the academic standards of the program. In the event the Title IX Coordinator or Deputy Title IX Coordinator receives a request for reasonable modifications that may be a temporary disability under Section 504 of the Rehabilitation Act or the Americans with Disabilities Act, the request will be sent to Disability Access Services.

- A. **Reporting Harassment or Discrimination:** Frederick Community College prohibits discrimination and harassment based on sex. Pregnant and Parenting Students who believe they have been discriminated against or harassed because of a qualifying condition may file a complaint with the Title IX Coordinator for Students.
- B. **Reasonable Modifications:** Students who are pregnant or parenting are entitled to reasonable modifications to ensure access to their education. Examples of reasonable

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modifications would be; flexible attendance and due dates, access to a lactation space and in some instances a short-term leave of absence.

- C. **Equitable Treatment:** The College will treat complainants and respondents equitably by offering supportive measures to complainants and by adhering to the grievance process outlined in Section VIII of this Policy, before imposing any disciplinary sanctions or other sanctions that are not supportive measures against respondents
- D. **Options for Resolution:** There are multiple ways to resolve a report of Prohibited Conduct. Whenever possible, FCC will utilize the resolution method chosen by the complainant. During the resolution of a report, the Title IX Coordinator will determine whether to implement reasonable supportive measures designed to assist all parties (complainants and respondents) and community members in maintaining access to and participation in FCC programs, services and activities during the resolution of the complaint.

This section includes information on Support-Based Resolution, Agreement-Based, and Investigation or investigation and Hearing procedures.

### **1. Support- Based Resolution**

A formal complaint is not required for a support-based resolution. A support-based resolution is an option for a complainant who does not wish FCC to take any further steps to address their concern, and when the Title IX Coordinator determines that another form of resolution, or further action, is not required. Some types of support that may be appropriate include: adjustments or changes to class schedules; moving from one residence hall room to another; adjusted deadlines for projects or assignments; adjustments to work schedule or arrangements; escorts to and around campus; or counseling.

A support-based resolution does not preclude later use of another form of resolution, for example if new information becomes available to FCC and the Title IX Coordinator determines there is need for additional steps to be taken, or the complainant later decides to file a formal complaint.

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

A formal complaint is required for Agreement-Based Resolution of Prohibited Conduct. Agreement-Based Resolution is **not** available to resolve a student Complainant's allegation that an employee has engaged in Title IX Prohibited Conduct.

Agreement-Based Resolution is an alternative to the investigation and hearing procedures where the Parties each voluntarily agree to resolve the formal complaint in a way that does not include any finding of responsibility. Agreement-Based Resolution is a voluntary, structured interaction between or among affected parties that balances support and accountability. If FCC offers Agreement-Based Resolution to the parties, and they voluntarily consent to engage in that process, the Title IX Coordinator must still take other prompt and effective steps as needed to ensure prohibited conduct does not continue or recur within the education program or activity. Parties and the Title IX Coordinator may agree to pause or exit the investigation and hearing procedures to explore Agreement-Based Resolution.

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Any party may design the proposed agreement between the parties. The Title IX Coordinator must approve of the use of the Agreement-Based Resolution process, and approve the final agreement between the parties. Agreement-Based Resolution may be initiated at any time prior to the release of the final determination. Agreement-Based Resolution does not result in a determination about whether the alleged Prohibited Conduct occurred.

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

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

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

- The specific allegation and the specific conduct that is alleged to have occurred;
- The requirements of the Agreement-Based Resolution process;
- Any consequences resulting from participating in the Agreement-Based Resolution process, including the records that will be maintained or could be shared, and whether FCC could disclose such information for use in a future FCC resolution process, including an investigation and resolution process arising from the same or different allegations, as may be appropriate.
- Notice that an agreement resulting from the Agreement-Based Resolution process is binding only on the parties and is not subject to appeal.
- Notice that once the Agreement is finalized and signed by the Parties, they cannot initiate or continue an investigation procedure arising from the same allegations.
- A statement indicating that the decision to participate in the Agreement-Based Resolution process does not presume that the conduct at issue has occurred.
- A statement that the respondent is presumed not responsible for violating this policy, unless respondent admits to violations of this policy;
- An explanation that all parties may be accompanied by an advisor of their choice, who may be a parent, colleague, friend, or attorney;
- A statement that any party has the right to withdraw from the Agreement-Based Resolution process and initiate or resume resolution procedures at any time before agreeing to a resolution;
- The date and time of the initial meeting with staff or the Title IX Coordinator, with a minimum of 3 days' notice;
- Information regarding Supportive Measures, which are available equally to the parties; and

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- The potential terms that may be requested or offered in an Agreement-Based Resolution agreement.

b. Facilitating an Agreement

If all Parties are willing to explore Agreement-Based Resolution, the Title IX Coordinator will then meet separately with each party to discuss the Agreement-Based Resolution process and facilitate an agreement. If an agreement cannot be reached, either because the Parties do not agree, determine they no longer wish to participate in the Agreement-Based Resolution process, or the Title IX Coordinator does not believe that the terms of the agreement or continuing the Agreement-Based Resolution process is appropriate, the Title IX Coordinator may decide that the reported conduct will instead be addressed through the investigation or investigation and hearing process. The Title IX Coordinator will inform the parties of such decision, in writing.

Agreement-Based Resolution processes are managed by facilitators who do not have a conflict of interest or bias in favor of or against complainants or respondents generally or regarding the specific parties in the matter. The Title IX Coordinator may serve as the facilitator, subject to these restrictions. The investigator or Hearing Officer for the matter may not facilitate an Agreement-Based Resolution in that same matter.

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

- an agreement that the respondent will change classes or housing assignments;
- an agreement that the Parties will not communicate or otherwise engage with one another;
- an agreement that the Parties will not contact one another;
- completion of a training or educational project by the respondent;
- completion of a community service project by the respondent;
- an agreement to engage in a restorative justice process or facilitated dialogue; and/or
- discipline agreed upon by all parties.

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



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### c. Finalizing the Resolution Agreement

Once the final terms of the Resolution Agreement have been agreed upon by all parties, in writing, and approved by the Title IX Coordinator, the matter will be considered closed, and no further action will be taken. Once signed, no appeal is permitted. The Agreement-Based Resolution process is generally expected to be completed within thirty (30) days and may be extended by the Title IX Coordinator as appropriate. All parties will be notified, in writing, of any extension and the reason for the extension.

Records of an Agreement-Based Resolution process can be shared with other offices as appropriate.

Any violations of the terms of the Resolution Agreement may result in disciplinary action.

## **X. Investigation & Hearing Procedures**

This policy includes two types of determinations:

- All Prohibited Conduct except for Title IX Prohibited Conduct.
- Title IX Prohibited Conduct.

The following information applies to both procedures.

### A. Acceptance of Responsibility

If a respondent accepts responsibility for all or part of the Prohibited Conduct alleged, the Coordinator or designated sanctioning officer will issue an appropriate sanction or responsive action as to those violation(s) and continue processing any remaining allegations of Prohibited Conduct, if any.

### B. Assignment of the Investigator and/or Hearing Officer

FCC will assign a trained investigator and/or Hearing Officer to conduct an adequate, reliable, and impartial investigation and hearing, if applicable, in a reasonably prompt timeframe. FCC reserves the right to utilize internal or external investigators, Hearing Officers, or appeals officers.

All parties have the option to participate in the investigation and/or hearing, as applicable, and each have the same rights during the resolution process including the right to an advisor, to submit relevant witness names and evidence, and to review the evidence gathered by the investigator prior to the investigator providing the final report to the Hearing Officer. In cases where there is a hearing, all parties have the same rights at the hearing, including the right to review any evidence that will be considered by the Hearing Officer prior to the hearing.

The investigator will establish deadlines for submission of names of relevant witnesses and submission of evidence and communicate those deadlines to the parties in writing.

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### C. Conflict of Interest or Bias

After a Notice of Investigation is issued to all parties, any party may object to the participation of the Title IX Coordinator or designated investigator on the grounds of a demonstrated bias or actual conflict of interest. All parties will have three (3) days from the date of the Notice of Investigation to object to the selection of the investigator or the Title IX Coordinator. Objections to the Title IX Coordinator are to be made, in writing, to the President's Office. Objections to the appointment of the investigator are to be made in writing to the Title IX Coordinator. All objections will be considered, and changes made as appropriate. If the objection is substantiated as to either the Title IX Coordinator or the Investigator, that individual shall be replaced. Any change will be communicated in writing.

### D. Timeline

In those cases that do not include a hearing, FCC strives to complete the investigation process within ninety (90) days from the date of the Notice of Investigation. In those cases that include a hearing, FCC strives to complete the investigation process within sixty (60) days from the date of the Notice of Investigation and complete the hearing within sixty (60) days of the Notice of Hearing.

The timeline for any part of the resolution process may be extended for good cause by the Title IX Coordinator. All parties shall be notified, in writing, of any extension to the timeline that is granted, the reason for the extension, and the new anticipated date of conclusion of the investigation and/or hearing. Good cause reasons for extension may include ensuring availability of witnesses and other participants and ensuring participants have sufficient time to review materials.

FCC shall not unreasonably deny a student party's request for an extension of a deadline related to a formal complaint during periods of examinations or school closures.

The investigator and/or Title IX Coordinator shall provide the Parties with periodic status updates, in writing.

### E. Burden and Standard of Review

FCC has the burden of conducting an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred. This burden does not rest with any party, and any party may decide to limit their participation in part or all of the process, or to decline to participate. This does not shift the burden of proof away from FCC and does not indicate responsibility. The standard of proof used in any determination process is the preponderance of the evidence standard, which means more likely than not.

### F. Written Notice of Meetings

FCC will provide to a party or witness whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time to prepare to participate.

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### **G. Evidence Gathering**

#### **1. *Interviews***

The investigator will interview all parties and relevant witnesses and gather relevant and directly related documentary evidence provided by the parties and any identified witnesses. Interviews may be conducted in person, or via video conference. When a party meets with an investigator, the investigator will ask questions related to the allegations in the formal complaint and a party is given the opportunity speak to the allegations and related events. Parties may identify fact witnesses and provide evidence that is relevant or directly related to the allegations. This will include inculpatory evidence (that tends to show it more likely that someone committed a violation) and exculpatory evidence (that tends to show it less likely that someone committed a violation). The investigator ultimately determines whom to interview to determine the facts relevant to the formal complaint.

#### **2. *Irrelevant Evidence***

The following are not relevant, as per applicable federal law. This means this information will not be accessed or considered, except by FCC to determine whether one of the exceptions listed below applies.

- a. Evidence that is protected under a privilege recognized by Federal or State law, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- b. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless FCC obtains that party's or witness's voluntary, written consent for use in its resolution procedures; and
- c. Evidence and questions about the Complainant's sexual predisposition or prior sexual behavior unless:
- d. They are offered to prove that someone other than the Respondent committed the conduct alleged by the complainant, or
- e. They concern specific incidents of the complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

## **XI. Investigation & Determination Procedures for Non-Title IX Prohibited Conduct**

This procedure is for all matters of Prohibited Conduct being investigated and determined under this policy except for Title IX Sexual Harassment.

### **A. Notice of Investigation**

Prior to the start of an investigation, the Parties will be provided a written Notice of Investigation communicating the initiation of an investigation. Should additional

## **Title IX and Sex Discrimination Policy and Procedures**

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allegations be brought forward, or information regarding location or date of the incident(s), a revised written Notice of Investigation shall be provided to all parties.

The Notice shall include, at a minimum:

1. FCC's investigation procedures, including the applicable determination procedure, and any alternative resolution process, with a link to the full procedures;
2. The specific allegations, including the identity of the parties, and dates and location if known;
3. Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), a description of the facts alleged to constitute Prohibited Conduct, the type of Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);
4. A statement that Retaliation is prohibited;
5. Contact information for the assigned investigator and Decisionmaker, as well as the process for raising a challenge to the appointed investigator, Decisionmaker, or Title IX Coordinator, and the deadline for doing so.
6. Expected length of the major stages of the resolution process, as well as any applicable deadlines.
7. Whether the Investigator, or another individual, shall serve as the Decisionmaker.
8. A statement that the respondent is presumed not responsible for Prohibited Conduct until a determination is made at the conclusion of the investigation and determination procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Decisionmaker;
9. The parties may have an advisor of their choice who may be a friend, colleague, therapist, or attorney;
10. The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence, and to provide a response;
11. A statement that FCC prohibits knowingly making false statements or knowingly submitting false information during resolution procedures, with a link to the relevant policy(ies).
12. The date and time of the initial interview with the investigator, with a minimum of five (5) days' notice.

### **B. Individual Interviews**

The investigator will hold individual interviews with parties and witnesses to ask relevant and not otherwise impermissible questions and follow-up questions, including questions exploring credibility. Only the investigator and the party or witness may attend each individual interview, and a party may be accompanied by their advisor. Additional attendees may be permitted at the discretion of the Title IX Coordinator in connection with an approved disability-related accommodation. All persons present at any time during any part of the investigation or resolution process are expected to maintain the

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privacy of the proceedings and not discuss or otherwise share any information learned as part of those proceedings, and may be subject to further FCC discipline for failure to do so.

FCC may also adopt and apply other reasonable rules regarding decorum, provided they apply equally to the parties.

The individual interviews may be conducted with all participants physically present in the same geographic location, or, at FCC's discretion, with all participants joining virtually through a video conferencing option.

FCC will share expectations of decorum to be observed at all times in any meeting or proceeding under this policy. These expectations are applied equally to all parties and advisors. FCC has the discretion to remove, with or without prior warning, from any meeting or proceeding an involved party, witness, or advisor who does not comply with these expectations and any other applicable FCC rules.

### **C. Evidence Review**

At the conclusion of all fact-gathering, the investigator will provide each party and their advisor, if any, the opportunity to review all relevant and not otherwise impermissible evidence gathered.

The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation and to submit any additional relevant evidence, questions for parties or witnesses, or the names of any additional witnesses with relevant information. This is the final opportunity to offer evidence or names of witnesses. Given the sensitive nature of the information provided, FCC will facilitate this review in a secure manner. None of the parties nor their advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

The parties will have a minimum of 5 days to inspect and review the evidence and submit a written response in writing to the investigator. FCC will provide access to copies of the parties' written responses to the investigator to all parties and their advisors, if any. The Title IX Coordinator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence. At the conclusion of the evidence review, when deemed appropriate by the investigator, the investigator shall then conduct any additional fact-gathering as may be necessary. If new, relevant evidence is gathered during this second fact-gathering period, the new evidence will be made available for review by the parties and their advisors. The parties shall have 5 days to provide a response to the newly-gathered evidence. No new evidence will be accepted as part of any response, except that the investigator shall have the discretion to accept relevant evidence that was not previously available or known to exist, and that was not previously discoverable with the exercise of reasonable diligence.

The investigator will consider the parties' written responses before finalizing the investigation report.

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The parties may each submit a written impact statement prior to the conclusion of the resolution process. The impact statement is not evidence and will be reviewed only after a determination of responsibility is reached.

### **D. Investigation Report**

The investigator, who may also serve as the Decisionmaker, shall evaluate the relevant and not impermissible evidence and make a factual determinations regarding each allegation, and also determine whether a violation of the policy occurred. The investigator may choose to place less or no weight upon statements by a party or witness who refused to respond to questions deemed relevant and not impermissible, or declined to participate. The investigator will not draw an inference about whether Prohibited Conduct occurred based solely on a party's or witness's refusal to respond to questions.

The investigator shall prepare a report which shall include:

1. A description of the allegations of Prohibited Conduct;
2. Information about the policies and procedures used to evaluate the allegations;
3. A description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, and methods used to gather other evidence;
4. An evaluation of the relevant and not otherwise impermissible evidence and the rationale for that evaluation;
5. Findings of fact for each allegation, with rationale;
6. Conclusions regarding which section of this policy or other FCC policy, if any, the respondent has or has not violated, with rationale.

This report shall be provided to the Title IX Coordinator. In the event that the Decisionmaker has determined that a violation of FCC policy has occurred, the Title IX Coordinator shall then provide the report to the appropriate Sanctioning Officer to determine the sanction, and the Title IX Coordinator shall then determine the appropriate remedy(ies) for the complainant and any impacted parties.

The Title IX Coordinator shall then provide the parties and their advisors, if any, with a written Notice of Outcome and a copy of the investigation report. The Notice of Outcome shall include:

1. A statement of, and rationale for, any disciplinary sanctions FCC imposed on the respondent
2. A statement as to whether remedies will be provided to the Complainant
3. For the complainant, a description of any remedies that apply to the complainant
4. FCC's procedures and the permitted reasons for the parties to appeal, including identifying the Appeals Officer.

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5. How to challenge participation by the Appeals Officer for bias or conflict of interest, which the Title IX Coordinator will resolve in their sole discretion.

The determination regarding responsibility becomes final either on the date that FCC provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

### **XII. Investigation & Decision-making Procedures in Cases of Title IX Sexual Harassment**

The following describes the investigation and hearing procedures for matters of Title IX Sexual Harassment.

#### **A. Notice of Investigation**

Prior to the start of an investigation, the Parties will be provided a written Notice of Investigation communicating the initiation of an investigation. Should additional allegations be brought forward, or information regarding location or date of the incident(s), a revised written Notice of Investigation shall be provided to all parties.

The Notice shall include, at a minimum:

1. FCC's investigation procedures and hearing procedures, including a link to the applicable policies;
2. Information about the agreement-based, with a link to the full procedures.
3. Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), a description of the facts alleged to constitute Prohibited Conduct, the type of Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);
4. A statement that retaliation is prohibited;
5. Expected length of the major stages of the resolution process, as well as any applicable deadlines.
6. The Notice will inform the parties that the investigator will establish and communicate, in writing, all investigation deadlines, including the final deadlines for submitting names of witnesses, evidence, and relevant questions to ask a party or witness. These deadlines may be extended by the Title IX Coordinator for good cause, and any changes will be provided, in writing, to the parties, along with the rationale for the revised deadline(s).
7. The process for raising a challenge to the appointed investigator, Decisionmaker or Title IX Coordinator, and the deadline for doing so.
8. A statement that the respondent is presumed not responsible for Prohibited Conduct until a determination is made at the conclusion of the resolution process. Prior to such a determination, the parties will have an opportunity to present relevant and directly related evidence to a trained, impartial Hearing Officer;
9. A statement that the parties may have an advisor of their choice who may be a friend, parent, therapist, colleague, or attorney;

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10. The parties are entitled to an equal opportunity to access the relevant and directly related evidence or an investigation report that accurately summarizes this evidence.
11. FCC's Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during resolution procedures. Chapter IX, Section J of FCC's Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the resolution procedures.
12. The date and time of the initial interview with the Investigator, with a minimum of five (5) days' notice.

### **B. Individual Interviews**

The investigator will hold individual interviews with parties and witnesses to ask relevant questions and follow-up questions, including questions exploring credibility, and to request of the parties the names of relevant witnesses and relevant evidence. Only the investigator and the party or witness may attend each individual interview, and a party may be accompanied by their advisor. Additional attendees may be permitted at the discretion of the Title IX Coordinator in connection with an approved disability-related accommodation. All persons present at any time during any part of the investigation or resolution process are expected to maintain the privacy of the proceedings and not discuss or otherwise share any information learned as part of the resolution process, and may be subject to further FCC discipline for failure to do so.

The investigator will then gather from parties, witnesses, and other sources, all relevant and directly related evidence.

FCC will share expectations of decorum to be observed at all times in any meeting or proceeding under this policy. These expectations are applied equally to all parties and advisors. FCC has the discretion to remove, with or without prior warning, from any meeting or proceeding an involved party, witness, or advisor who does not comply with these expectations and any other applicable FCC rules.

The individual interviews may be conducted with all participants physically present in the same geographic location, or, at FCC's discretion, with all participants joining virtually through a video conferencing option. The investigator will determine, in their sole discretion, whether parties and witnesses are likely to provide relevant information about the allegations, and has the sole discretion to determine which parties and witnesses to call to an interview. The investigator may conduct follow-up interviews as they deem appropriate.

### **C. Investigator Determination of Relevance**

The investigator will determine whether parties and witnesses are likely to provide relevant information about the allegations, and has the sole discretion to determine which parties and witnesses to call to individual follow-up meetings.

The investigator will review all evidence gathered through the investigation and determine what evidence is relevant, directly related, and irrelevant. Character evidence that is not relevant will not be considered.

### **D. Evidence Review**



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At the conclusion of all fact-gathering, the investigator will provide each party and their advisor the opportunity to review all relevant and directly related evidence gathered. In the event that an audio or audiovisual recording is shared, the recording will only be made available at an in-person and monitored meeting on campus, and will not otherwise be transmitted for review, so as to maintain the privacy of those participating in the process.

The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation and to submit any additional relevant evidence, questions for parties or witnesses, or the names of any additional witnesses with relevant information. This is the final opportunity to offer evidence or names of witnesses. Evidence not provided during the investigation process will not be considered by the Hearing Officer. Given the sensitive nature of the information provided, FCC will facilitate this review in a secure manner. None of the parties nor their advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

The parties will have a minimum of 10 days to inspect and review the evidence and submit a written response in writing to the investigator. The Title IX Coordinator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence.

When deemed appropriate by the investigator, the investigator shall then conduct any additional fact-gathering as may be necessary. If new, relevant evidence was submitted as part of evidence review, or is gathered during this second fact-gathering period, the new relevant evidence will be made available for review by the parties and their advisors. The parties shall have 5 days to provide a response to the newly-gathered evidence. No new evidence will be accepted as part of any response, except that the investigator shall have the discretion to accept relevant evidence that was not previously available or known to exist, and that was not previously discoverable with the exercise of reasonable diligence.

The investigator will consider the parties' written responses before finalizing the investigation report.

### **E. Investigation Report**

The investigator will prepare a written report summarizing all of the relevant evidence gathered and all steps taken during the investigation process. The investigator will also include as an attachment all relevant evidence gathered during the investigation, as well as all interview notes.

### **F. Conclusion of Investigation, Notice of Hearing**

Once the investigation report is final, the report together with all attachments shall be provided to each party and to their advisor, if any, in a secure manner (e.g., by providing digital copies of the materials through a protected, "read-only" web portal). Each party shall have ten (10) days to provide a response. The response, if any, shall be provided to the Hearing Officer.

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Following conclusion of the investigation, each party shall be provided with a Notice of Hearing, which shall include information regarding the date of the hearing, the identity of the Hearing Officer, the process to be used at the hearing, deadlines for submission of evidence, names of witnesses, or questions to be reviewed by the Hearing Officer to ensure they are relevant to the allegations. The hearing shall be scheduled no less than ten (10) days from the date of the Notice of Hearing.

Within three (3) days of receipt of the Notice of Hearing, either party may object to the Hearing Officer on the basis of a demonstrated bias or actual conflict of interest. Any objection is to be in writing and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator shall remove the Hearing Officer and appoint another.

### **G. Hearing Procedures**

The purpose of a hearing is for a Hearing Officer to determine whether the conduct occurred as alleged, and if so, whether that conduct violates this policy. FCC expects that all individuals who participate in the hearing process do so truthfully and that all who have a responsibility for carrying out one or more aspects of the hearing process do so fairly and without prejudice or bias. Hearings may be conducted in person or via videoconferencing. The Title IX Coordinator may determine that the hearing will continue in the absence of any party or any witness.

FCC will appoint a Hearing Officer who will determine whether a violation of FCC policy has occurred. The Hearing Officer shall have the authority to determine the relevance of evidence submitted, and of questions asked, to limit the time allotted to any phase of the hearing, and/or to limit the time allotted to the full hearing. The Hearing Officer shall not draw an inference about the determination regarding responsibility based solely on a party's absence from the hearing or refusal to answer questions posed.

Each hearing shall be recorded by FCC and this recording will be considered the only official recording of the hearing. No other individual is permitted to record while the hearing is taking place. The recording is the property of FCC but shall be available for listening until the conclusion of the appeals process to complainant, respondent, their respective advisors, Hearing Officer, and Appeal Officer by contacting the Title IX Coordinator.

#### **1. *Prior to the Hearing***

The parties and the Hearing Officer all have the right to call witnesses. Witnesses participating in the hearing must have information relevant to the allegations. Parties who wish to call witnesses must submit the name of the witness at least five (5) days in advance of the hearing.

Only witnesses who participated in the investigation will be permitted to participate in the hearing, unless the witness was otherwise unknown or not known to have relevant information during the course of the investigation. If the witness did not participate in the investigation, the party must also provide the reason the witness was not interviewed by the investigator, and what information the witness has that is relevant to the allegations. The Hearing Officer will then determine whether the witness has relevant information and if there is sufficient justification for permitting

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the witness to participate. The Hearing Officer may instead send the case back to the investigator to interview the newly proffered witness prior to the hearing taking place.

A list of witnesses approved by the Hearing Officer will be provided to the parties at least three (3) days prior to the hearing.

Three (3) days prior to the hearing, each party shall submit to the Hearing Officer a preliminary list of questions they wish to pose to the other party, or to a witness. If the Hearing Officer determines that any questions are not relevant, the Hearing Officer shall exclude the question and explain the reason for the exclusion of the question at the hearing. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The Hearing Officer must give a party an opportunity to clarify or revise any question that the Hearing Officer has determined is unclear or harassing and, if the party sufficiently clarifies or revises a question, and the question is relevant, the question will be asked.

### *2. Advisor*

Each party is entitled to be accompanied by one advisor at the hearing. The role of the advisor is to assist the party with understanding and navigating the proceedings, and at the direction of the Hearing Officer, pose questions developed by their advisee to the other party or witnesses. The advisor may not represent, advocate for, respond for, or otherwise speak on behalf of, the party during the hearing.

### *3. Hearing Participation Guidelines*

The Hearing Officer shall have the authority to maintain order and decorum at the hearing, including responding to disruptive or harassing conduct, and when necessary to adjourn the hearing or exclude the disruptive person. In the event the Hearing Officer removes an advisor, the Hearing Officer will have the discretion to appoint another advisor for the remainder of the hearing. The Hearing Officer also has the authority to determine whether any questions are not relevant, abusive, intimidating, or disrespectful, and will not permit such questions. The Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing.

### *4. Statements, Questioning and Presentation of Evidence*

During the hearing, each party will be permitted to provide an introductory statement. Following introductory statements, the Hearing Officer will call parties and witnesses for questioning. The order of questioning shall be determined by the Hearing Officer. The Hearing Officer will pose questions to the parties and witnesses including the questions the Hearing Officer approved to be asked that were submitted by each party prior to the hearing. Each party will then be provided an opportunity to submit follow-up written questions to the Hearing Officer for the Hearing Officer to pose to the other party or witnesses. If the Hearing Officer determines that any questions are not relevant to the allegations, or seek otherwise impermissible evidence, the Hearing Officer shall exclude the question and explain the reason for the exclusion of the question at the hearing and offer an opportunity to the party to reframe or resubmit

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the question. Questions that are unclear or harassing of the party or witness being questioned will not be permitted.

Only the Hearing Officer is permitted to ask questions of parties and witnesses. Neither party may directly question the other party or witness. Advisors are not permitted to directly or indirectly question the other party or witness.

Following the questioning of parties and witnesses, each party will be permitted to provide a closing statement. An advisor is not permitted to provide a closing statement on behalf of their party.

### **H. Hearing Officer's Report**

Following the hearing, the Hearing Officer shall prepare a determination report. All findings shall be made by a preponderance of the evidence, meaning more likely than not. To the extent credibility determinations need to be made, such determinations shall not be based on a person's status as complainant, respondent, or witness.

The determination report will include:

1. A description of the prohibited conduct alleged;
2. A reference to the policies and procedures used to evaluate the allegations;
3. Description of all procedural steps taken to date;
4. The Hearing Officer's evaluation of the relevant evidence along with the finding of facts;
5. Determinations for each allegation, with the rationale;
6. Sanction determination (if applicable)
7. Whether remedies will be provided;
8. The procedures for an appeal, including how to challenge participation by the Appeal Panel for bias or conflict of interest – which the Title IX Coordinator will resolve in their sole discretion.

The Hearing Officer's report shall be provided to the Title IX Coordinator. If the Hearing Officer determines that there is no finding of responsibility, the Title IX Coordinator shall communicate the findings to each party, and their advisor should the party wish the advisor to receive it, a written Notice of Outcome along with a copy of the Hearing Officer's report, to the parties, together with procedures for appeal.

If there is a finding of responsibility, the Title IX Coordinator shall contact the appropriate sanctioning officer who will determine the sanction and notify the Title IX Coordinator of the sanctioning determination. The Title IX Coordinator will then provide each party, and their advisor should the party wish the advisor to receive it, a written Notice of Outcome regarding the Hearing Officer's decision, including the Hearing Officer's report. The Title IX Coordinator will also provide written communication to the complainant regarding any appropriate remedies.

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### **XIII. Appeals**

Dismissals of formal complaints and determinations made in the investigation and hearing processes may be appealed in writing by either party. Appeals will be sent to the Title IX Coordinator, who will then send the appeal to the Appeals Officer assigned to conduct a written review of the appeal(s) and to make a final determination. Appeals must be in writing and filed within ten (10) days following the issuance of the outcome letter.

- A. When an appeal is filed, the other party shall be notified and provided with a copy of the filed appeal within one (1) day, and have five (5) days to respond to the appeal in writing. Any party's decision not to submit a reply to an appeal is not evidence that the non-appealing party agreed with the appeal.
- B. Within three (3) days of an Appeal Officer being assigned, either party may provide written objection to the Appeal Officer on the basis of an actual bias or conflict of interest. Any objection is to be sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator will appoint another Appeal Officer.
- C. Appeals may be filed only on the following three grounds:
  1. Procedural Error: A procedural error occurred would change the outcome. A description of the error and its impact on the outcome of the case must be included in the written appeal; or,
  2. New Evidence: New evidence or information has arisen that was not available or known to the party during the investigation or hearing, that would change the outcome. Information that was known to the party during the resolution process but which they chose not to present is not considered new information. The new evidence, an explanation as to why the evidence was not previously available or known, and an explanation of its potential impact on the investigation findings must be included in the written appeal; or
  3. Actual Conflict of Interest or Demonstrated Bias: The Title IX Coordinator, investigator, or others with a role in the process with an actual conflict of interest or demonstrated bias for or against complainants or respondents generally, or the individual complainant or respondent, that would change the outcome. Any evidence supporting the alleged conflict of interest or demonstrated bias must be included in the written appeal.

The Appeal Officer will make a determination regarding the appeal and communicate that decision, along with a rationale for the decision to the Title IX Coordinator who will communicate the Appeal Officer's decision to the parties. The decision of the Appeals Officer is final.

### **XIV. Recordkeeping**

The College shall maintain for a period of seven (7) years records of:

- A. Each sexual harassment investigation, including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies

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provided to the complainant designed to restore or preserve equal access to the College education program or activity;

- B. Any appeal and the result therefrom;
- C. Any informal resolution and the result therefrom; and
- D. All materials used to train Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution process. The College shall make these training materials publicly available on its website.

For each response required under Section VII.B. of this Policy, the College shall maintain for a period of seven (7) years records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the College shall document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the College education program or activity. If the College does not provide a complainant with supportive measures, then the College shall document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

All records pertaining to Title IX sexual harassment involving students are maintained by the Title IX Coordinator using the secured College tracking system. The Director of College Safety, Security, and Emergency Preparedness submits the Clery Act Report and maintains Clery Act records. The Title IX Coordinator is responsible for maintaining records relating to sexual Harassment investigations and resolutions. Records shall be maintained in accordance with the College Records Retention Policy and Procedures.

### **XV. Compliance with Grants and Work-sharing Agreements.**

The College will comply with all notification requirements regarding sexual harassment imposed as a condition of being the recipient of any grant or party to any work-sharing agreement with any outside agency or institution.

### **XVI. Resources Available**

Students or others who are not sure whether they want to make a report should still seek help from the resources listed. These resources are provided to offer support and information.

Procedures in this document were revised to be in accordance with the regulations issued by the U.S. Department of Education, Office of Civil Rights effective January 31<sup>st</sup>, 2025.

To report a claim of Sexual Harassment, please contact:

Dr. Benita Rashaw, Title IX Coordinator, Student Center Suite 100, 301-846-2469  
Klaire Williams, Deputy Title IX Coordinator for Students, Annapolis Hall 103C, 301-624-2711  
Dan West, Deputy Title IX Coordinator for Employees, Gambrill Hall 225, 301-846-2686

Email: [TitleIX@frederick.edu](mailto:TitleIX@frederick.edu)

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### **XVII. Additional Enforcement Information**

The U.S. Equal Employment Opportunity Commission (EEOC) investigates reports of unlawful discrimination and harassment in employment.

The U.S. Department of Education, Office for Civil Rights (OCR) investigates complaints of unlawful discrimination and harassment of students and employees in education programs or activities.

For more information, contact the nearest office of the EEOC or OCR.

US Department of Education  
Office for Civil Rights  
The Wanamaker Building  
100 Penn Square East, Suite 515  
Philadelphia, PA 19107-3323  
Telephone: 215-656-8541  
FAX: 215-656-8605; TDD: 800-877-8339  
Email: [OCR.Philadelphia@ed.gov](mailto:OCR.Philadelphia@ed.gov)

U.S. Equal Employment Opportunity Commission (EEOC)  
<https://www.eeoc.gov/contact-eeoc>

### **XVIII. Title IX Sexual Harassment College and Community Resources In Case of an Emergency on Campus**

College Security  
Call 4444 from a main campus phone or a Monroe Center office phone  
or 301.846.2453 from any other phone

#### **Confidential Resources to Discuss Sexual Harassment**

Frederick County Hotline  
A service of the Mental Health Association of Frederick County 24/7 Information and Referral  
for Crisis Intervention  
Call 211 or 866-411-6803  
[www.211md.org](http://www.211md.org)

Nearest hospitals equipped with the Department of State Police  
Sexual Assault Evidence Collection Kit  
Frederick Health Hospital 240-566-3300  
Carroll Hospital 410-848-3000

Heartly House - Crisis Hotline 301-662-8800  
[www.Heartlyhouse.org](http://www.Heartlyhouse.org)

Maryland Coalition Against Sexual Assault (MCASA)

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410-974-4507, [www.mcasa.org](http://www.mcasa.org)

National Sexual Assault Hotline

A free and confidential 24/7 hotline for incidents occurring outside of Maryland  
1-800-656-HOPE (4673)

Rape, Abuse and Incest National Network (RAINN) 24/7 support

1-800-656-HOPE (4673)

[www.rainn.org](http://www.rainn.org)

Sexual Assault Legal Institute (SALI) 1-877-496-SALI (7254)

### **XIX. Related Policies and Procedures**

- A. [Alcohol, Tobacco, Opioid, and Other Drug Awareness](#)
- B. [Code of Conduct for Visitors, Guests, and Volunteers](#)
- C. [Code of Student Conduct](#)
- D. [Complaint Policy and Procedures for Employees](#)
- E. [Complaint Policy and Procedures for Students](#)
- F. [Employee Code of Ethics](#)
- G. [Employee Misconduct](#)
- H. [Non-Discrimination](#)
- I. [Student Absence and Withdrawal](#)
- J. [Student Athlete Concerns about Athletic Programs and Activities](#)
- K. [Technology Use](#)