



## **College of the Atlantic Discrimination and Harassment Policy**

### **I. College of the Atlantic's Stance**

Members of College of the Atlantic ("College" or "COA") community, guests, and visitors have the right to be free from discrimination and harassment because of that person's race, sex, sexual orientation, gender identity and/or expression, familial status, pregnancy, ethnicity or national origin, ancestry, religion, age, creed, color, genetic information, physical or mental disability, HIV status, or status as a veteran (collectively, "protected statuses"). This Discrimination and Harassment Policy ("Policy") is intended to define community expectations, to establish definitions to aid in determining when behavior violates these expectations, and to outline the options available in response to discrimination and harassment for all legal protected statuses (other than Title IX sex discrimination which is detailed in COA's [Title IX Policy](#)). It is the College's expectation that each individual will exhibit the respect, consideration, and responsibility that would prohibit discrimination and harassment.

This Policy is also intended to continue COA's efforts to prevent and remedy discrimination and harassment based on the protected statuses detailed above.

### **II. Scope**

This Policy applies to COA students and employees who allege that they have experienced discrimination and/or harassment by a member of the College community, including, but not limited to students, employees, alumni, prospective students and employees, vendors, and visitors to campus. The College reserves the right to continue a resolution process detailed in this Policy, even if a student withdraws from COA or an employee ends their employment at the College during the process.

When the Respondent is a member of the College community, one of the resolution processes detailed below may be available regardless of the status of the Complainant, who may or may not be a member of the College community. However, the College's ability to take disciplinary action against a Respondent may be dependent on the Respondent's status within the College community. The College's ability to take disciplinary action against a Respondent who is not part of the College community will be limited and is determined by the context of the conduct and the College's relationship to the Respondent.

If the Respondent is unknown or is not a member of the College community, the Title IX Coordinator will assist the Complainant in identifying appropriate support measures. The College may take other actions to protect the Complainant against a third-party Respondent, such as barring the Respondent from College property and/or events.

### **III. Jurisdiction**

This Policy covers incidents or behaviors that occur on campus (including farms and islands) and in COA-sponsored programs, in which one or more of the parties are members of the COA community. Additionally, this Policy also covers off-campus incidents or behaviors if the off-campus conduct could be discriminatory and/or harassing and disrupts the COA educational environment, results in a student being excluded from participating in or enjoying the benefits of COA's education program or activity, or interferes with an employee's working environment.

Information shared or posted online, including on social media, can also violate this Policy, if it creates a potentially hostile learning or working environment.

### **IV. Standard of Proof**

The College uses the preponderance of the evidence standard of proof to determine whether or not discrimination and/or harassment, based on the protected classes detailed above, occurred. This means that the process detailed in this Policy seeks to determine if it is more likely than not that alleged conduct, in violation of this Policy, occurred.

### **V. Definitions**

This policy applies the following definitions:

#### **Coercion**

Coercion occurs when one person is pressured unreasonably for and/or manipulated into sex and is clearly distinct from seduction. Coercing someone into sexual activity violates that person's agency and autonomy and is prohibited by this Policy in the same way as physically forcing someone into sex.

#### **Complaint/Report**

Complaint and report will be used interchangeably to refer to any alleged discriminatory or harassing conduct that is shared with a responsible employee at the College.

### **Complainant(s)**

Complainant(s) will refer to the person(s) who has experienced prohibited conduct, as defined by this Policy.

### **Confidential Employee**

Confidential employees are College employees that have a professional obligation to protect confidential information that the confidential employee receives in the performance of their professional duties. Confidential employees can include mental health professionals, other medical professionals, and clergy.

### **Education Program or Activity**

An education program or activity of the College includes:

- Any on-campus premises; including COA's farms, islands, and additional properties.
- Any off-campus premises over which COA has substantial control.
- Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of COA's programs and activities over which COA has substantial control.

### **Effective Consent**

Effective consent means words or actions that show an unambiguous, voluntary, and knowing agreement to engage in mutually agreed-upon sexual activity. Effective consent can only be given by a person with the capacity to do so and who has not been forced into doing so. The following guidance is offered to further understanding of the definition of effective consent:

- Effective consent can be given by word or action, but verbal consent is usually the clearest.
- Effective consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity or the same activity again.
- Silence—without actions clearly demonstrating permission—cannot be assumed to show consent.
- Previous sexual encounters with or prior consent from the same partner(s) cannot be assumed to imply consent to future sexual acts.
- Effective consent given prior to or during an encounter does not preclude consent being withdrawn later in that same encounter.
- Effective consent needs to be obtained each time partners engage in sexual activity.
- Certain states have a designated minimum age under which a person cannot give effective consent.

**Force**

Force is the use of physical violence and/or the imposition on someone physically to gain sexual access and can also include threats, intimidation (implied threats) and coercion that overcome resistance or produce consent. The absence of resistance does not imply the absence of force.

**Incapacity**

Incapacity is the lack of ability to make rational, reasonable decisions because the individual lacks the capacity to give knowing consent (e.g., to understand the “who,” “what,” “when,” “where,” or “how” of their sexual interaction). A person may be incapacitated because of consumption of drugs and/or alcohol; mental or physical disability; being asleep; a lack of consciousness; and/or lack of awareness that the sexual activity is occurring.

When drugs or alcohol are involved, incapacitation is a state beyond impairment or intoxication and involves an assessment of the person’s decision-making ability; awareness of consequences; ability to make informed, rational judgements; capacity to appreciate the nature and quality of the act; and/or level of consciousness. This assessment is based on objectively and reasonably apparent signs of incapacitation when viewed from the perspective of a sober, reasonable person.

**Parties**

Parties refers to the Complainant(s) and Respondent(s), collectively.

**Preponderance of the Evidence**

The preponderance of the evidence standard is used to assess if alleged conduct violated the Policy. The preponderance of the evidence standard is often described as “more likely than not” or “50% plus a feather.”

**Prohibited Conduct**

Prohibited conduct refers to any alleged conduct, detailed below, that violates the Policy.

**Relevant Evidence and Questions**

“Relevant” evidence and questions includes any question or evidence that tends to make an allegation of sexual harassment more or less likely to be true.

- For matters involving sex and/or gender-based prohibited conduct, evidence and questions about the Complainant’s sexual predisposition or prior sexual behavior are not relevant, unless;
  - They are offered to provide that someone other than the Respondent committed the conduct alleged by the Complainant, or
  - They concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.
- Evidence and questions about the following are not relevant:

- Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege.
- Any party's medical, psychological, and similar records unless the party has given voluntary, written consent.

### **Reporter**

Reporter refers to the person bringing the potential prohibited conduct to the attention of a responsible employee, including, but not limited to the Title IX Coordinator or designee.<sup>1</sup>

### **Resolution Processes**

Resolution processes is an overarching term used to refer to the informal resolution and formal investigation processes that may be used by the College to resolve a matter reported to the College, when the Title IX Coordinator determines that the alleged prohibited conduct, if proven, would violate the Policy.

### **Respondent(s)**

Respondent(s) refers to the person(s) who is alleged to have engaged in prohibited conduct, as defined by the Policy.

### **Responsible Employee**

Responsible employee refers to any employee of the College who is not a confidential employee. Responsible employees are required to disclose any reports of alleged discrimination and/or harassment to the Office of Title IX and Civil Rights Compliance within 24-48 hours of receiving the report.

### **Privacy vs. Confidentiality**

References to *confidentiality* mean the ability of identified confidential resources to not report crimes and violations to law enforcement or College officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References to *privacy* mean COA offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible. Information disclosed to private resources will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. COA will limit the disclosure of private information as much as practicable, even if the Title IX Coordinator determines that a request for confidentiality cannot be honored.

### **Witness**

Witness refers to any person who may have information relevant to the complaint who is not the Complainant or Respondent.

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<sup>1</sup> The Title IX Coordinator has discretion to delegate any responsibilities detailed in this Policy to an appropriately trained individual within the College or hired by the College, when the need arises.

## VI. Prohibited Conduct Under This Policy

The following conduct is prohibited under this Policy:

- A. Discrimination:** An action which limits, deprives, or denies an individual's employment or participation in a College education program or activity based, in whole or in part, upon the individual's actual or perceived protected status; this includes treating similarly situated individuals differently based in whole or in part upon the individual's protected status.

Discrimination may also include failure to provide reasonable accommodations, as required by law.

- B. Discriminatory Harassment:** Discriminatory harassment is a form of discrimination based, in whole or in part, upon an individual's actual or perceived protected status, and includes Quid Pro Quo Harassment and Hostile Environment Harassment, as defined below.

- a. Quid Pro Quo Harassment:** Quid Pro Quo Harassment occurs when an employee or other person authorized by the College to provide aid, benefit, or service within a College education program or activity explicitly or impliedly conditions the provision of that aid, benefit, or service on an individual's participation in unwelcome conduct.
- b. Hostile Environment Harassment:** Hostile Environment Harassment is unwelcome conduct that is subjectively and objectively offensive and is so severe or pervasive that it limits or effectively denies a person's ability to participate in or benefit from the College's education program and employment, interferences with academic or work performance, or creates a hostile, intimidating, or offensive environment.

- C. Sex and/or Gender-Based Harassment:** Sex and/or Gender-Based Harassment is conduct on the basis of sex and/or gender that satisfies one or more of the following:

- a. Sexual Harassment**
- i. Quid Pro Quo Harassment:** Quid Pro Quo Harassment occurs when an employee conditions educational benefits on participation in unwelcome sexual conduct.

**ii. Hostile Environment:** Sexual Harassment is unwelcome conduct that a reasonable person would determine is so severe, pervasive, or objectively offensive that it effectively denies a person equal access to the College's education program or activity.

**b. Sexual Exploitation:** Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Sexual exploitation includes, but is not limited to:

- Invasion of sexual privacy
- Prostituting another student
- Non-consensual video, audio, or any other methods of recording sexual activity
- Non-consensual distribution of any form of recording of sexual activity
- Non-consensual digital or online sexual behavior
- Engaging in voyeurism without the consent of the parties having sex
- Knowingly transmitting an STI or HIV to another student
- Exposing one's genitals in non-consensual circumstances
- Inducing another to expose their genitals

**c. Sexual Assault:** Sexual Assault is any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent, including:

**i. Rape:** Rape is vaginal or anal penetration, however slight, with a body part or object, or oral penetration involving mouth to genital contact.

**ii. Criminal Sexual Contact:** Criminal Sexual Contact is the intentional touching of the clothed or unclothed body parts without consent of the Complainant for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

Criminal Sexual Contact also includes the forced touching by the Complainant of the Respondent's clothed or unclothed body parts, without consent of the Complainant for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

This offense includes instances where the Complainant is incapable of

giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

- iii. Incest:** Incest is non-forcible sexual intercourse between people who are related to each other within the degrees wherein marriage is prohibited. In the State of Maine, a person may not marry that person's parent, grandparent, child, grandchild, sibling, nephew, niece, aunt, or uncle.
- iv. Statutory Rape:** Statutory Rape is non-forcible sexual intercourse with a person who is under the statutory age of consent. In the State of Maine, consent cannot be given by minors who are 14 or 15, if the actor is at least 5 years older than the minor. Consent cannot be given by minors under 14 years of age, regardless of the age of the Respondent. For this reason, any sexual act with an individual under 14 years of age is considered a felony.
- d. Dating Violence:** Dating Violence is any violence committed by a person who is or has been in the social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on consideration of the following factors: the length of the relationship; the type of relationship; the frequency of interaction between the persons involved in the relationship.
- e. Domestic Violence:** Domestic Violence includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under Maine domestic or family violence laws, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Maine.
- f. Sex or Gender-Based Stalking:** Sex or Gender-Based Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.
- g. Other Conduct:** Alleged prohibited conduct that does not meet one or more of these criteria may still be prohibited under COA's Title IX Policy or other relevant policies.

**D. Retaliation:** No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI or Title VII, or because a person has reported information, made a report or complaint, testified, assisted, or participated, or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy, including an informal resolution process. No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, participated, or refused to participate in any manner in an investigation.

Complaints alleging retaliation may be filed according to this Policy. The College will treat acts of retaliation as a separate incident. Acts of retaliation committed by a COA community member will be processed under the applicable COA community policy, which is determined by the Respondent's status within the College community.

## **VII. Response and Supportive Measures**

COA will work with anyone who has experienced discrimination and/or harassment, based on one of the protected statuses detailed above, to make accommodations and offer reasonable, feasible, and appropriate services, as determined by the Title IX Coordinator. Options available to Complainants may include, but are not limited to, changes in housing or work situations, changes to course or work schedules, access to medical and counseling services, and/or limited or no contact agreements with Respondents.

COA reserves the right to take whatever measures it deems necessary in response to allegation(s) of discrimination and/or harassment in order to protect community members' rights and safety.

## **VIII. Requests for Language Assistance and/or Accommodations**

Parties may make requests to the Title IX Coordinator for reasonable accommodations, including language assistance, in order to actively participate in the processes detailed within this Policy, at any point, as long as the accommodation request does not fundamentally alter the processes detailed within the Policy.

## **IX. Education and Training**

COA recognizes the importance of raising awareness of the issues surrounding discrimination and harassment based on the protected statuses detailed above. Therefore, COA is committed to ensuring that COA community members have adequate information on this topic and are offered appropriate training on the Policy.

## **X. Procedure for Addressing Complaints of Discrimination and/or Harassment**

**A. Options for Support and Pursuing Action:** When seeking support or reporting discrimination and/or harassment, all parties should be aware of confidentiality, privacy, and reporting requirements in order to make informed choices. Different employees on campus have different reporting responsibilities and different abilities to maintain confidentiality, depending on their roles at COA and upon COA policy. Reporters are encouraged to ask questions about an employee's ability to maintain confidentiality or to maintain privacy before consulting and are reminded that reporters do not have to share any information that they do not wish to share when seeking support.

- 1. Confidential Support:** Reporters who are members of the COA community and who wish to maintain absolute confidentiality can seek support from COA's confidential employees, which include COA mental health counselors, nurses, and the Confidential Resource Advisor. COA mental health counselors are available to help students free of charge and may be made available to College staff and faculty by the Title IX Coordinator. All confidential employees can offer individuals confidentiality, discuss options, and offer advice without any obligation to tell anyone unless you want them to do so. Additionally, reporters can seek confidential resources external to COA from other mental health practitioners or clergy in town.
- 2. Seeking Support Where Personally Identifiable Information Remains Private:** Responsible employees, who are not confidential employees, will be required to report information reported to them (including name of Complainant, date, location, category of misconduct/crime, potential for danger, and name of Respondent, if known) to the Title IX Coordinator. The sharing of this information is to help the Title IX Coordinator to determine if there is a pattern of behavior or repeated instances of misconduct that need to be addressed to protect the safety of the community as a whole. This information will only be shared as necessary on a need-to-know basis, and all efforts will be made to protect the Complainant's privacy.

Any reporter who does not wish to speak with the Title IX Coordinator is not required to do so. However, the Title IX Coordinator will send the reporter information about available resources and support. Additionally, if the reporter is identified as a Complainant in a resolution process

detailed below or if a Complainant can be identified from the report, the Complainant will receive status updates from the Title IX Coordinator regarding the status of the resolution process but will not be required to respond to the status updates or participate in the resolution process.

**B. Filing a Complaint:** COA takes all reports of discrimination and/or harassment seriously. A complaint can be made in person, orally, or in writing, to any employee of the College, but preferably the Title IX Coordinator. In order to begin a disciplinary process, leading to possible administrative action and/or an investigation and a resolution that can end in the outcomes described in the appropriate section below, individuals are encouraged to file a complaint with COA's Title IX Coordinator, Puranjot Kaur, [pkaur@coa.edu](mailto:pkaur@coa.edu), 207.288.5015, ext. 5614.

Responsible employees who receive a report of potential discriminatory and/or harassing conduct must inform the Title IX Coordinator within 24-48 hours. The responsible employee receiving the report will gather basic information from the reporter, including: a description of the alleged incident(s), when and where it occurred, and any safety concerns of the reporter. The reporter or Complainant should also include the name and any contact information for the Respondent, if known.

An individual, other than a responsible employee, can make a confidential report to the Title IX Coordinator using the College's anonymous reporting feature ([linked here](#)) without disclosing their own identity or the identity of the Respondent. The Title IX Coordinator will assess the report using the same intake process detailed below, however, depending on the amount of information provided, the Office of Title IX and Civil Rights Compliance may not be able to take further action to respond to the report.

Individuals with complaints of this nature also always have the right to file a formal complaint with the United States Department of Education:

Office for Civil Rights (OCR)  
400 Maryland Avenue, SW Washington, DC 20202-1100  
Customer Service Hotline: 800-421-3481  
Facsimile: 202-453-6012  
TDD#: 877-521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

Employees can also contact the Maine Human Rights Commission:

Maine Human Rights Commission  
51 State House Station  
Augusta, ME 04333-0051  
Phone: 207-624-6050  
TTY/TTD: 207-624-6064  
FAX: 207-624-6063

Under the Policy, there is no time limit on reporting potential prohibited conduct, but reporters are encouraged to report prohibited conduct as soon as possible after the incident(s) in order to ensure the report can be most effectively investigated.

- C. Amnesty for Personal Use of Drugs or Alcohol:** COA recognizes that students may be reluctant to seek assistance from COA officials or emergency services for themselves or others after experiencing prohibited conduct under this Policy because they fear being held responsible under COA's Student Code of Conduct for alcohol or drug violations relating to an incident. The College generally will not initiate a formal conduct process under the conduct code if a student makes a good faith report to a College official, seeks help from emergency services, or participates in a resolution process detailed in this Policy, for personal consumption of alcohol or other drugs that would otherwise violate the conduct code, as long as the misconduct did not endanger the health or safety of others. However, COA does not extend this protection to the distribution of drugs or alcohol and/or the provision of alcohol and/or drugs to another individual for the purpose of inducing incapacitation as defined in the Policy.
- D. False Reporting:** COA takes false reporting of allegations under this Policy seriously and false reporting may be subject to disciplinary action. This does not include good faith reports where the ultimate determination does not result in a finding of responsibility for a Policy violation.
- E. Delegation of Authority to Determine Procedure for Addressing Complaints:** The Title IX Coordinator may consult with the Student Life Committee or Personnel Committee regarding substantive edits to this Policy, and may incorporate suggestions when deemed appropriate by the Title IX Coordinator and legal counsel.
- F. Initial Intake:** Upon receipt of a report, the Title IX Coordinator will offer to meet with the reporter and/or the Complainant to gather any additional

information necessary to conduct an initial assessment regarding whether the alleged conduct may violate the Policy. The Title IX Coordinator will also share information about resources for support, options for action, and explanations of resolution processes, as appropriate to the circumstances. The Title IX Coordinator will work with the Complainant to determine the need for appropriate interim measures, accommodations for the Complainant, and/or other necessary, short-term remedial actions.

- G. Interim Measures:** The College may remove a student Respondent who may have engaged in prohibited conduct from all or part of an educational program or activity on an emergency basis after the College undertakes an individualized safety and risk analysis, determines there is a risk of imminent danger to the health or safety to member(s) of the College community, and provides the Respondent with notice of removal and an opportunity to challenge the decision immediately following the removal.

The College may place an employee Respondent on administrative leave for the duration of a resolution process, detailed below. The College will determine if the administrative leave during the process should be imposed with or without pay benefits.

The College may temporarily withhold a student's degree when the student is named Respondent in a pending resolution process detailed in this Policy until the completion of the resolution process.

- H. Advisor:** Both the Complainant and the Respondent can identify an advisor of their choosing, who is not a witness in the matter and who may or may not be an attorney, to assist them throughout a resolution process. If either party chooses to have an advisor, the party should inform the Title IX Coordinator of the identity of the advisor as soon as possible. This advisor may be, but is not required to be, a member of the COA community. The role of the advisor is to provide support and guidance to either the Complainant or Respondent, but not to direct the process or formally represent the Complainant or Respondent. The advisor has access to any information the Complainant or the Respondent chooses to share with them and with the understanding that the advisor will abide by the expectations of confidentiality in COA's process. At the Title IX Coordinator's discretion, an advisor disrupting the process can be removed.
- I. Conflict of Interest or Bias:** Both the Complainant and the Respondent have the right to petition the Title IX Coordinator to have any member of the resolution

process removed on the basis of a substantiated conflict of interest/bias. The Title IX Coordinator shall make the final determination as to whether such a conflict of interest or bias exists.

**J. Initial Inquiry:** The Title IX Coordinator will conduct an initial inquiry to:

- Identify any potential prohibited conduct that may violate this Policy; and
- Determine whether the alleged conduct, if proved by a preponderance of the evidence standard, would reasonably constitute prohibited conduct. If it is determined in the initial inquiry that there is insufficient evidence to support that the alleged conduct, if proven, would reasonably constitute prohibited conduct of the Policy, the complaint will not proceed through the resolution processes detailed below.

The College reserves the right to take appropriate long-term action to eliminate discriminatory harassing, and/or retaliatory conduct, to prevent its recurrence, and to address its efforts on the Complainant and other impacted individual(s), even in situations where the alleged conduct would not result in a violation of this Policy.

**K. Dismissal:** The Title IX Coordinator may dismiss a complaint brought under the Policy, or any specific allegations raised within the complaint, at any time during a resolution process for the following reasons:

- A Respondent cannot be identified and/or the Respondent is not participating in a College program, or activity, or employed by the College;
- The Complainant voluntarily withdraws a complaint, and the Title IX Coordinator declines to initiate a resolution process or determines that the matter cannot be resolved through a resolution process without the Complainant's participation;
- The College determines the alleged conduct, even if proven, would not constitute prohibited conduct under this Policy; and/or
- If specific circumstances prevent COA from gathering sufficient evidence to reach a determination regarding the formal complaint or allegations within the formal complaint.

If the Title IX Coordinator determines that the allegations contained in the complaint would not constitute prohibited conduct under the Policy, the Title IX Coordinator may refer the matter to the applicable administrator to provide the

Complainant and/or reporter with resources, dismiss the complaint, and/or close the matter.

The parties may appeal the dismissal of a complaint on the limited grounds in the “Appeals” section below.

The Title IX Coordinator will provide the parties with written notice of the dismissal or referral and the grounds for the decision, as well as information about the parties’ rights to appeal the decision.

Upon dismissal for the purposes of Title IX, COA retains discretion to utilize other COA policies to determine if a violation of COA policy has occurred. If so, COA will promptly send written notice of the dismissal of the complaint under the Discrimination and Harassment Policy and removal of the allegations to a separate College conduct process.

## **XI. Resolution Process**

If the Title IX Coordinator determines that the alleged prohibited conduct, if proven, would violate the Policy, the College may use an informal resolution process, or the formal investigation process detailed below, to resolve the matter.

- A. Consolidation:** The Title IX Coordinator may consolidate complaints against one or more Respondent, or by one or more Complainant, into one investigation or informal resolution process if the alleged prohibited conduct arises out of the same facts or circumstances.
- B. Allegations Falling Under Multiple Policies:** If the alleged conduct may violate the Policy and any additional College policies, the alleged conduct may be investigated and/or resolved using the resolution processes detailed below to address all policy violations.
- C. Respondent Accepts Responsibility:** The Respondent may accept responsibility for all or part of the alleged conduct that may violate the Policy at any point during a resolution process.

If the Respondent accepts responsibility for all of the alleged conduct, the Title IX Coordinator will make a determination that the Respondent is in violation of the Policy and then will determine the appropriate outcomes/consequences, if any, using the process detailed in the “Outcomes/Consequences” section below. This

process is not subject to appeal.

If the Respondent accepts responsibility for some of the alleged conduct, the Title IX Coordinator will make a determination and use the “Outcomes/Consequences” process detailed below to determine appropriate outcomes/consequences, if any, for the conduct for which Respondent accepts responsibility. The remaining conduct for which Respondent does not accept responsibility will proceed through the appropriate resolution process detailed below. The process regarding the alleged conduct for which Respondent accepts responsibility is not subject to appeal.

**D. Informal Resolution:** In some cases, depending on the nature and severity of the complaint, informal resolution of concerns may be possible. Anyone seeking assistance in pursuing informal resolution can contact the Title IX Coordinator for assistance in understanding the options for informal resolution.

The Title IX Coordinator has ultimate discretion as to whether informal resolution is an appropriate resolution option to resolve a complaint. Both parties must agree to participate in informal resolution before the informal resolution process is initiated. Information gathered during an informal resolution process cannot be utilized as evidence within a formal investigation process.

#### **E. Formal Investigation Process**

- a. Presumption of Non-Responsibility:** Respondent(s) is presumed not responsible for the alleged prohibited conduct during the formal investigation process until a determination of responsibility is made at the conclusion of the formal investigation process, described below.
- b. Timeframe:** The timeframe for the formal investigation process begins with the filing of a complaint. The formal investigation process will be concluded within a reasonably prompt manner, which is typically no longer than ninety (90) business days after the filing of the complaint, provided that the formal investigation process may be extended for good cause. The College will notify the parties in writing if the formal investigation process is extended beyond 90 days for good cause.
- c. Written Notice of Investigation:** If the Title IX Coordinator determines that it is appropriate to initiate a formal investigation, the Title IX Coordinator will notify the parties in writing that the Office of Title IX

and Civil Rights Compliance has initiated a formal investigation.

The College will issue a Written Notice of Investigation, which will contain the following information:

- The applicable Policy;
- The identities of the parties, if known;
- The alleged prohibited conduct;
- The date(s) and location(s) of the alleged incident(s), if known;
- State that Respondent is presumed not responsible for the alleged prohibited conduct until a finding of responsibility is made at the end of the formal investigation process;
- Note that the parties are entitled to an advisor throughout the investigation process;
- Note that all parties are entitled to appropriate supportive measures throughout the investigation process;
- Note that the parties are entitled to reasonable accommodations throughout the duration of the formal investigation process;
- Identify the assigned investigator(s) and explain how the parties may challenge the investigator(s) based on conflict of interest or bias; and
- State that retaliation is prohibited and can result in a separate violation of this Policy.

**d. Comprehensive Investigation:** The Title IX Coordinator will assign an investigator(s) to the matter. The investigator(s) will be selected from trained internal members of the Title IX and Civil Rights Compliance Team and/or trained external investigators.

The investigator(s) will typically take the following steps in the order that makes most sense for the particular circumstances:

- Review information gathered during the intake and inquiry process;
- Provide both parties with the opportunity to be interviewed and identify witnesses the party would like the investigator(s) to interview or information the party would like the investigator(s) to consider as evidence. The investigator(s) has the discretion to determine which witnesses to interview and which evidence to collect, as well as to determine the relevance of such information;

- Commence a thorough, reliable, and impartial investigation that seeks to gather relevant information or evidence by developing a strategic investigation plan;
  - Complete the investigation promptly, and without unreasonable deviation from the intended timeline; and
  - Consult with the Title IX Coordinator to ensure that a thorough, reliable, and impartial investigation has occurred
- e. **Preliminary Report:** After the parties have been given the opportunity to be interviewed by the investigator(s) and identify relevant evidence, including identifying potential witnesses, and after the investigator(s) has completed the gathering of evidence and interviews, the investigator(s) will prepare a preliminary investigation report that includes an accurate written summary of the evidence deemed relevant by the investigator(s). The preliminary investigation report will include an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence.

The parties will receive concurrent access to review the preliminary investigation report and relevant evidence. The College prohibits the parties and advisors from retaining, duplicating, transmitting, sharing and/or distributing the preliminary investigation report in any form. If a party and/or their advisor makes an unauthorized disclosure of the investigation materials the party may face disciplinary action.

The parties have (10) ten business days from the date the parties receive the preliminary investigation report to respond. A party's response to the preliminary investigation report should be submitted on their own behalf and can include feedback, comments, additional evidence, and/or requests for further investigation, or any other information the parties deem relevant, for the investigator(s) to review. The investigator(s) will determine if the information provided by a party warrants any further substantive review and/or investigation by the investigator(s). The investigator(s) will notify the parties, in writing, if further investigation is necessary. Any additional relevant evidence gathered by the investigator(s) will be shared with the parties in a supplement to the investigation report. The parties will be given (5) five business days to review and respond to the supplement to the investigation report. The investigator(s) will use the preliminary report and the supplement to the preliminary report to generate a final investigation report.

- f. Finding and Final Investigation Report:** After the completion of the evidence gathering portion of an investigation, the investigator(s) will generate a comprehensive final investigative report, which will include a written summary of all of the relevant evidence gathered and a final determination, based on a preponderance of the evidence standard, as to whether or not there is sufficient information to find that a violation of the Policy has occurred.

If there is no finding of responsibility, the Title IX Coordinator will simultaneously share the final investigation report with the parties. If there is a finding of responsibility, the Title IX Coordinator will administer the outcomes/consequences process detailed below prior to issuing the final investigation report.

- g. Outcomes/Consequences:** If the Respondent is found responsible for any Policy violations, the Title IX Coordinator will determine appropriate outcomes/consequences following the guidelines outlined in the Policy. The Title IX Coordinator may consult with another appropriately positioned and trained College employee or external individual, who is free from conflict of interest and bias and who was not previously involved in the resolution process.

In addressing forms of prohibited conduct, COA aims to uphold community expectations of respect, the right to autonomy, and a campus environment that is safe for all.

Not all forms of prohibited conduct covered in this Policy will be deemed equally serious offences, and COA reserves the right to impose different consequences, ranging from a verbal warning to expulsion/employment termination, depending on the severity of the offense.

The Title IX Coordinator will then simultaneously share the final investigation report and an outcomes/consequences letter with the parties. The outcomes and consequences letter will include a summary of the outcomes/consequences, a rationale for each outcome/consequence, and information about the implementation of the outcomes/consequences.

The Title IX Coordinator will also notify all individuals with a “need to know” of the outcomes/consequences, in order to ensure implementation

of any outcomes/consequences and to take action to prevent a reoccurrence and to remedy any adverse effects on the Complainant and the community.

- h. Appeals:** Both parties have the right to appeal (1) the dismissal of a formal complaint or any included allegations and (2) findings of the final investigation report. A request to appeal can be directed to the Title IX Coordinator, who will designate a trained, neutral internal or external appeal officer, who will be free of conflict of interest and bias, and who has not served as the investigator(s), Title IX Coordinator, and/or consulted on shared outcomes/consequences in the same matter.

Either party may appeal and must make the request for appeal within (5) business days of receiving a notice of dismissal or a formal complaint or any included allegations or after receiving the final investigation report. If the final investigation report contains a finding of responsibility, the parties have (5) five business days from the issuance of outcomes/consequences letter to file an appeal of the final investigation report.

The request for appeal must be made in writing to the Title IX Coordinator, must indicate the grounds for appeal, and must provide evidence to support one of the following limited grounds for appeal:

- A procedural irregularity that affected the outcomes of the matter (i.e. a failure to follow COA's procedures);
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter;
- The Title IX Coordinator, investigator(s), or decision-maker(s) had conflict of interest or bias for or against an individual party, or for or against Complainants or Respondents in general, that affected the outcomes of the matter.

Appeals may be no longer than (5) five pages (including attachments). Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, 12-point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the

appeal document not to meet these standards.

Any request for appeal will be shared with the other involved party who will be offered the opportunity to provide a response to be reviewed along with the request for appeal. If the other party chooses to submit a response to the request for appeal, they must do so within (5) business days.

The request for appeal and responses will then be forwarded to the appeal officer for initial review to determine if the appeal meets the limited grounds for appeal and is timely. The original finding and outcomes/consequence will stand if the appeal is not timely or substantively eligible, and that decision is final. The party requesting appeal must show error, as the original finding and outcome/consequence are presumed to have been decided reasonably and appropriately.

Filing an appeal puts any decisions or outcomes/consequences on hold until the appeal is resolved. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

The outcome of the appeal will be provided in writing simultaneously to both parties and will include rationale for the decision. The appeal officer's outcome of appeal is final.