

2.6 Title IX Complaint Process

Last Revised: October 2024

Policy: Piedmont Community College (PCC) does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment

Purpose/Definitions:

Purpose

The purpose of this policy is to provide a process for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator or Deputy Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

Definitions

Advisor—a person designated by one party (complainant/respondent) to ask, at the hearing, the other party and any witnesses all relevant and permissible questions and follow-up questions, including those challenging credibility.

Clear and Convincing Evidence Standard—a level of burden of proof in which the evidence is highly and substantially more likely to be true than untrue; the Decision-maker must be convinced that the contention is highly probable (Colorado v. New Mexico, 467 U.S. 310 (1984)). This standard is a medium level of burden of proof and is a more rigorous standard to meet than the preponderance of the evidence standard, but a less rigorous standard to meet than proof beyond a reasonable doubt. (“Clear and Convincing Evidence,” Legal Information Institute (Cornell Law School), accessed July 14, 2020, https://www.law.cornell.edu/wex/clear_and_convincing_evidence)

Complainant—

- 1) a student or employee of the College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or
- 2) a person other than a student or employee of the College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the College’s education program or activity at the time of the alleged sex discrimination.

Complaint—an oral or written request to the College that objectively can be understood as a request for the College to investigate and make a determination about alleged discrimination under Title IX or its regulations.

Confidential employee—certain positions have been identified as confidential employees. These employees have no obligation to notify the Title IX Coordinator or Deputy Title IX Coordinator about possible sex-based discrimination; instead, their only obligation would be to provide contact information for the Title IX Coordinator or Deputy Title IX Coordinator and information about reporting. However, they may be required or allowed to share information in certain circumstances. For example, if a court order is presented, if they have reason to believe that a student is at high risk for suicide or violence toward others or if a minor is being abused. For a list of these employees and resources, visit the [Title IX webpage](#).

Consent—the positive cooperation in act or attitude pursuant to the exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved. Consent can be revoked by the other person, in a manner that would cause a reasonable person to believe consent is revoked.

Days (Business)—except as otherwise noted, days will mean business days during which the college administrative offices are open. In computing any period of time, the day on which notice is received will not be counted. Saturdays, Sundays and scheduled College holidays will not be included in the computation. All processes involving Federal, State, or other statutes must be completed in the time frame set forth in the appropriate statute or law.

Decision-maker—a member of the College’s Title IX team who, at the hearing, permits each party’s Advisor to ask the other party and any witnesses all relevant and permissible questions and follow-up questions, including those challenging credibility. The Decision-maker is trained on issues of relevance, including how to apply the rape shield protections provided only for complainants, must be free from conflicts of interest or bias for or against complainants or respondents.

Deliberate indifference—actions that are clearly unreasonable in light of the known circumstances.

Deputy Title IX Coordinator—any employee delegated with responsibility for compliance with Title IX and this policy by the Title IX Coordinator and acting within the scope of authority of a Title IX Coordinator as set forth herein. The Deputy Title IX Coordinator is trained on issues of relevance, including how to apply the rape shield protections provided only for complainants, must be free from conflicts of interest or bias for or against complainants or respondents.

Disciplinary sanctions—consequences imposed on a respondent following a determination under Title IX that the respondent violated the College’s prohibition on sex discrimination.

Education program or activity—includes any locations, events or circumstances where “the school exercised substantial control over both the respondent and the context” (*Davis v. Monroe County Board of Education*).

Employees with administrative, leadership, and teaching responsibilities—(excluding confidential employees) deans, supervisors, and faculty.

Employees with authority to institute corrective measures—(excluding confidential employees) the Title IX Coordinator; Deputy Title IX Coordinator; Director, Campus Safety; Director, Human Resources; Vice president, Student Development; Vice President, Instruction/CAO; Vice President, Administrative Services/CFO, Vice President, Information Technology/CIO, and the Affirmative Action/Equal Employment Opportunity Officer. Notice received by any of these employees constitutes knowledge upon which the College’s mandatory response obligations arise under this policy.

Exculpatory evidence—evidence favorable to the respondent that exonerates or tends to exonerate the respondent of guilt.

Formal resolution—a resolution option in which an external or internal investigator conducts an investigation as a means of addressing complaints that does not require the consent of the parties.

Harassment that creates a hostile environment—an unwelcome sex-based conduct that is sufficiently severe or pervasive that, based on the totality of the circumstances and evaluated subjectively and objectively, it denies or limits a person’s ability to participate in or benefit from the recipient’s education program or activity.

Inculpatory evidence—evidence that shows or tends to show a person’s involvement in an act or evidence that can establish guilt.

Informal resolution—a resolution option such as mediation or restorative justice, so long as both parties give voluntary, informed, written consent to participate in such a process.

Investigator— a member of the College’s Title IX team who impartially gathers facts and evidence from the complainant, the respondent, and any material witnesses or evidence related to the case. The Investigator is trained on issues of relevance, including how to apply the rape shield protections provided only for complainants, and must be free from conflicts of interest or bias for or against complainants or respondents.

Notice—delivery of any written material required or allowed to be given to another under this policy may be (i) by personal delivery, (ii) by certified or registered U. S. Mail, return receipt requested, (iii) by commercial courier service, or (iv) by email.

Notification—notice of sex discrimination (including sex-based harassment) made by any person, at any time, and by any means (in person, phone, mail or email) that results in the Title IX Coordinator or Deputy Title IX Coordinator receiving the person’s verbal or written

notification. Notifications are not limited to a school's campus community and may come from others, such as on-campus visitors.

Party—a complainant or respondent.

Pervasive conduct—unwelcome influence or physical effect that spreads widely throughout an area or group of people.

(Qualifying) complainant—an individual who is participating in or attempting to participate in the school's education program or activity (i.e., students, employees, applicants and, in some cases, parents). Also included, are complainants who file a complaint about sex discrimination they experienced even if they have chosen to leave the College's education program or activity as a result of that discrimination or for other reasons.

Rape Shield Protection—a rule which limits the introduction of the complainant's sexual history as evidence and therefore can prevent the complainant from being discredited by information that is not relevant to the respondent's guilt or innocence.

Relevant—related to the allegations of sex discrimination under investigation as part of the Title IX process. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a Decision-maker in determining whether the alleged sex discrimination occurred.

Remedies—measures provided, as appropriate, to a complainant or any other person the College identifies as having had their equal access to the College's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the College's education program or activity after the College determines that sex discrimination occurred.

Respondent—a person who is alleged to have violated the College's prohibition on sex discrimination.

Restitution— the act of giving back something that was lost or stolen, or of paying money for the loss.

Retaliation—intimidation, threats, coercion, or discrimination against any person by the College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

Sex-based harassment—a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

- 1) **Quid pro quo harassment**—an employee, agent, or other person authorized by the College to provide an aid, benefit, or service under the College’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;

- 2) **Hostile environment harassment**—unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the College’s education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - 2.1 The degree to which the conduct affected the complainant’s ability to access the College’s education program or activity;
 - 2.2 The type, frequency, and duration of the conduct;
 - 2.3 The parties’ ages, roles within the College’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - 2.4 The location of the conduct and the context in which the conduct occurred; and
 - 2.5 Other sex-based harassment in the College’s education program or activity; or

- 3) **Specific offenses.**
 - 3.1 **Sexual assault**—an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
 - 3.2 **Dating violence**—violence committed by a person:
 - 3.2.1 who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - 3.2.2 where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - 3.2.2.1 the length of the relationship;
 - 3.2.2.2 the type of relationship; and
 - 3.2.2.3 the frequency of interaction between the persons involved in the relationship;
 - 3.3 **Domestic violence**—felony or misdemeanor crimes committed by a person who:

- 3.3.1 is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
 - 3.3.2 is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - 3.3.3 shares a child in common with the victim; or
 - 3.3.4 commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
- 3.4 **Stalking**—engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- 3.4.1 fear for the person’s safety or the safety of others; or
 - 3.4.2 suffer substantial emotional distress.

Sexual Discrimination—treating someone unfavorably because of that person’s sex, including discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, gender identity, transgender status, or sexual orientation.

Supportive measures—individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- 1) restore or preserve that party’s access to the College’s education program or activity, including measures that are designed to protect the safety of the parties or the College’s educational environment; or
- 2) provide support during the College’s Title IX process or during an informal resolution process.

Time—in computing any period of time prescribed or allowed by this policy, the day of receipt of the document is not to be included. The last day of the period so computed is to be included unless it is not a business day as defined in this policy, in which event the period runs until the end of the next day which is a business day.

Title IX Coordinator—an official of the College with authority to coordinate the College’s efforts to comply with Title IX responsibilities including instituting corrective measures on the College’s behalf when a verbal or written notification is received of an alleged incident of sexual discrimination, including sex-based harassment, in person, by U.S. Mail, by telephone, by email, or by any other means that results in the Coordinator receiving the notification. The Title IX Coordinator is trained on issues of relevance, including how to apply the rape shield protections provided only for complainants, must be free from conflicts of interest or bias for or against complainants or respondents. The Coordinator also monitors for barriers to reporting

information about conduct that may constitute sex discrimination under Title IX so that the College may take steps reasonably calculated to address barriers the Coordinator identifies.

Approval Authority/Monitoring Authority: Piedmont Community College’s Board of Trustees has approval authority for this policy. The Vice President, Administrative Services/CFO and Vice President, Student Development have monitoring authority for this policy.

Procedure:

Section 1: Notice of Non-Discrimination

- 1.1. PCC prohibits sex discrimination in any education program or activity that it operates. See PCC Policy 8.1 Public Information for the College’s official statement of non-discrimination.
- 1.2. Inquiries about Title IX may be referred to the College’s Title IX Coordinator, Deputy Title IX Coordinator, the U.S. Department of Education’s Office for Civil Rights, or all the above.
- 1.3. Reporting information about conduct that may constitute sex discrimination or making a complaint to the Title IX Coordinator or Deputy Title IX Coordinator may be accomplished in any of the following ways:
 - 1.3.1. direct meeting with the Title IX Coordinator, Building E, Room 146 (Person County Campus) or the Deputy Title IX Coordinator in Building K, Room 105 (Caswell County Campus);
 - 1.3.2. email: titleix@piedmontcc.edu; or
 - 1.3.3. [College website link](#).
 - 1.3.4. Reports involving a student should be documented in writing.

Section 2: Complaints of Sex Discrimination

- 2.1. For sex-discrimination, including sex-based harassment
 - 2.1.1. A complaint of sex discrimination, including complaints of sex-based harassment, requesting the College to investigate and make a determination about alleged discrimination under Title IX may be made by:
 - 2.1.1.1. a complainant;

- 2.1.1.2. a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
 - 2.1.1.3. the College's Title IX Coordinator or Deputy Title IX Coordinator.
 - 2.1.2. When a party is both a student and employee of the College, a fact-specific inquiry is required to determine whether the party's primary relationship with the College is to receive an education and whether the alleged sex-based harassment occurred while the party was performing employment-related work.
- 2.2. For sex discrimination other than sex-based harassment
 - 2.2.1. With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed in item 2.1, the following persons have a right to make a complaint:
 - 2.2.1.1. any student or employee the College; or
 - 2.2.1.2. any person other than a student or employee who was participating or attempting to participate in the College's education program or activity at the time of the alleged sex discrimination.
- 2.3. The College may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances.
 - 2.3.1. When more than one complainant or more than one respondent is involved, references to a party, complainant, or respondent include the plural, as applicable.
- 2.4. Any non-confidential employee who either has authority to institute corrective measures or has responsibility for administrative, leadership, and teaching responsibilities must notify of possible sex-based discrimination to either the Title IX Coordinator or the Deputy Title IX Coordinator upon receiving information about conduct that may constitute sex-based discrimination.
- 2.5. All other non-confidential employees are obligated to either notify the Title IX Coordinator or Deputy Title IX Coordinator or provide the contact information of the Title IX Coordinator or Deputy Title IX Coordinator and information about how to make a complaint of sex discrimination to any person who provides the employee with information about conduct that reasonably may constitute sex discrimination.

- 2.6. The College must address all sex discrimination in its education programs or activities, including when some of the sex-based harassment contributing to the hostile environment occurred outside the College's education program or activity or outside the United States.
 - 2.6.1. Conduct that occurs in the College's education program or activity includes:
 - 2.6.1.1. conduct that occurs in any building owned or controlled by a student organization that is officially recognized by the College; or
 - 2.6.1.2. conduct that is subject to the College's disciplinary authority.
- 2.7. Complaints that do not meet the criteria in item 2.6 will be handled through one of the College's other grievance processes.
 - 2.7.1. Students should refer to Policy 7.12 Student Grievance Process for information specific to non-Title IX complaints.
 - 2.7.2. Employees should refer to Policies 2.3 Affirmative Action and Equal Opportunity Plan, 2.17 Unlawful Harassment, 2.18 Sexual Assault, and/or 5.20 Employee Grievance Procedure for information specific to complaints involving employees.
 - 2.7.3. These policies are available in the [General Catalog and Student Handbook](#) and the [PCC Policy Manual](#) located on the PCC College website.

Section 3: Basic Requirements of the Title IX Process

- 3.1. The College will treat complainants and respondents equitably at every stage of the College's response.
- 3.2. The College requires that any Title IX Coordinator, Deputy Title IX Coordinator, Investigator, or Decision-maker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
 - 3.2.1. Any Title IX Coordinator, Deputy Title IX Coordinator, Investigator, or Decision-maker may serve in more than one role if needed, and their training is appropriate and current.
- 3.3. The College presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of the Title IX process.
- 3.4. The College will take reasonable steps to protect the privacy of the parties and witnesses during the Title IX process.

- 3.4.1. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the College's Title IX process.
- 3.4.2. The parties cannot engage in retaliation, including against witnesses.
- 3.5. The College will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence.
 - 3.5.1. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.
- 3.6. The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the College to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:
 - 3.6.1. evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
 - 3.6.2. 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 the College obtains that party's or witness's voluntary, written consent for use in its Title IX process; or
 - 3.6.3. evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment.
 - 3.6.3.1. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Section 4: Timeframes for Major Stages of the Title IX Process

4.1. On receiving a notification, the Title IX Coordinator or Deputy Title IX Coordinator will, within ten (10) days of receipt:

4.1.1. notify the parties in writing:

4.1.1.1. of the College's Title IX process and any informal resolution process;

4.1.1.2. of 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), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);

4.1.1.3. retaliation is prohibited;

4.1.1.4. the respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the Title IX process. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Decision-maker;

4.1.1.5. the parties may have an advisor of their choice who may be, but is not required to be, an attorney;

4.1.1.6. they are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence;

4.1.1.7. PCC Policy 7.5 Code of Conduct (section 1), Policy 2.32 Non-Retaliation (section 1), and Policy 5.19 Employee Disciplinary Policy (section 1) prohibit knowingly making false statements or knowingly submitting false information; and

4.1.1.8. whether the complaint will be investigated or dismissed.

4.1.2. If, in the course of an investigation, the College decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, the College will notify the parties of the additional allegations.

4.1.3. The College will offer and coordinate supportive measures equitably to the complainant and/or respondent to the extent necessary to restore or preserve access to the College's education program or activity.

- 4.1.3.1. Supportive measures will be kept confidential to the extent reasonably possible and may include, for example, counseling, extension of deadlines, restrictions on contact between the parties, and voluntary or involuntary changes in class, work, or housing.
 - 4.1.3.2. If Supportive Measures are refused by the complainant or respondent, the Title IX Coordinator or Deputy Title IX Coordinator must document why they did not provide a complainant with Supportive Measures.
 - 4.1.4. In the absence of a complaint or informal resolution process, determine whether to initiate a complaint of sex discrimination if necessary to address conduct that may constitute sex discrimination under Title IX in the College's education program or activity.
 - 4.1.5. Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur in the College's education program or activity, in addition to providing remedies to an individual complainant.
- 4.2. Upon receipt of a complaint, the Title IX Coordinator or Deputy Title IX Coordinator will, within fifteen (15) days of receipt assign an Investigator to investigate the allegations, if appropriate.
- 4.3. The College may allow a reasonable extension of the timeframes to either party on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay.
 - 4.3.1. Requests for timeframe extensions must be made in writing to the Title IX Coordinator or Deputy Title IX Coordinator at least 5 business days prior to the respective deadline.
 - 4.3.2. The requestor will be notified in writing of the decision to approve or deny the extension within 3 business days.
 - 4.3.2.1. All parties will be notified in writing of any timeframe extensions once a decision is made.

Section 5: Informal Resolution

- 5.1. The College offers an informal resolution process except when a complaint includes allegations that an employee engaged in sex-based harassment of an elementary school or secondary school student, or when such a process would conflict with Federal, State, or local law.

- 5.2. Voluntary, informed written consent from both parties must be obtained if an informal resolution is chosen to resolve the complaint.
 - 5.2.1. Either party has the right to withdraw from the informal resolution process at any time before an agreement is reached and initiate or resume the formal resolution process.
 - 5.2.2. If the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume the Title IX complaint process arising from the same allegations.
 - 5.2.3. Potential terms that may be requested or offered in an informal resolution agreement are binding only on the parties.
 - 5.2.4. Any information disclosed or discovered during an informal resolution process will be maintained and utilized if the formal resolution process is initiated or resumed.

Section 6: Investigation

- 6.1. The Investigator will provide for adequate, reliable, and impartial investigation of complaints.
- 6.2. The burden is on the College—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.
- 6.3. The Investigator will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.
- 6.4. The Investigator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.
- 6.5. The Investigator will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:
 - 6.5.1. the Investigator will provide a reasonable opportunity to respond to the evidence; and

6.5.2. the Investigator will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the Title IX process.

6.5.2.1. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

6.6. The Investigator will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.

6.6.1. The Investigator will not limit the choice or presence of the advisor for the complainant or respondent in any meeting or proceeding.

6.6.2. The Investigator may establish restrictions regarding the extent to which the advisor may participate in these procedures, as long as the restrictions apply equally to the parties.

6.7. The Investigator will provide the parties with the same opportunities, if any, to have people other than the advisor of the parties' choice present during any meeting or proceeding.

6.8. The Investigator will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

6.8.1. The Investigator may allow the parties to present expert witnesses.

6.9. The Investigator will provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations and not otherwise impermissible as well as the written investigative report.

6.9.1. The Investigator will provide at least ten (10) days to review and respond in writing to the evidence or the investigative report.

Section 7: Dismissal of a Complaint

7.1. The College may dismiss a complaint if:

7.1.1. the College is unable to identify the respondent after taking reasonable steps to do so;

- 7.1.2. the respondent is not participating in the College's education program or activity and is not employed by the College;
- 7.1.3. the complainant voluntarily withdraws, in writing, any or all of the allegations in the complaint, the Title IX Coordinator or Deputy Title IX Coordinator decline to initiate a complaint, and the College determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- 7.1.4. the College determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX.
- 7.2. Before dismissing the complaint, the College will make reasonable efforts to clarify the allegations with the complainant.
- 7.3. Upon dismissal, the College will promptly notify the complainant, in writing, of the basis for the dismissal.
 - 7.3.1. If the dismissal occurs after the respondent has been notified of the allegations, then the College will notify the parties simultaneously in writing.
- 7.4. The College will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint.
 - 7.4.1. If the dismissal occurs after the respondent has been notified of the allegations, then the College will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:
 - 7.4.1.1. procedural irregularity that would change the outcome;
 - 7.4.1.2. new evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
 - 7.4.1.3. the Title IX Coordinator, Deputy Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.
- 7.5. If the dismissal is appealed, the College will:
 - 7.5.1. notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;

- 7.5.2. implement appeal procedures equally for the parties;
 - 7.5.3. ensure that the Decision-maker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
 - 7.5.4. ensure that the Decision-maker for the appeal has been trained consistent with the Title IX regulations;
 - 7.5.5. provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
 - 7.5.6. notify the parties of the result of the appeal and the rationale for the result.
- 7.6. When a complaint is dismissed, the College will, at a minimum:
- 7.6.1. offer supportive measures to the complainant as appropriate;
 - 7.6.2. if the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
 - 7.6.3. take other prompt and effective steps, as appropriate, through the Title IX Coordinator or Deputy Title IX Coordinator to ensure that sex discrimination does not continue or recur within the College education program or activity.

Section 8: Hearing Process

- 8.1. The Hearing enables the Decision-maker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.
- 8.2. The process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will:
 - 8.2.1. allow the Investigator or Decision-maker to ask such questions during individual meetings with a party or witness;
 - 8.2.2. allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the Investigator or Decision-maker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and

- 8.2.2.1. Questions must be submitted at least 24 hours prior to the meeting in which they are to be asked.
- 8.2.3. provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.
 - 8.2.3.1. Follow-up questions must be submitted with 3 days of receipt of the recording or transcript.
- 8.3. The Decision-maker will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible.
 - 8.3.1. Questions that are unclear or harassing of the party or witness being questioned will not be permitted.
 - 8.3.1.1. The Decision-maker will give a party an opportunity to clarify or revise a question that the Decision-maker determines is unclear or harassing.
 - 8.3.1.2. If the party sufficiently clarifies or revises the question, the question will be asked.
- 8.4. The Decision-maker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible.
 - 8.4.1. The Decision-maker will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

Section 9: Standard of Evidence & Written Determination

- 9.1. Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the Decision-maker will use the clear and convincing standard of proof to determine whether sex discrimination occurred.
- 9.2. The Decision-maker will notify the parties simultaneously in writing of the determination whether sex discrimination occurred under Title IX including:
 - 9.2.1. a description of the alleged sex discrimination;

- 9.2.2. information about the policies and procedures that the Decision-maker used to evaluate the allegations;
- 9.2.3. the Decision-maker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex discrimination occurred;
- 9.2.4. if there is a determination that sex discrimination occurred, any disciplinary sanctions to be imposed on the respondent and whether remedies determined in consultation with the Office of Student Development and/or the Office of Human Resources and Organizational Development will be provided to the complainant and, to the extent appropriate, other students identified by the College to be experiencing the effects of the sex discrimination;
 - 9.2.4.1. in accordance with PCC Policy 7.5 Code of Conduct, student sanctions may include, but are not limited to,
 - 9.2.4.1.1. reprimand/warning
 - 9.2.4.1.2. probation
 - 9.2.4.1.3. loss of privileges
 - 9.2.4.1.4. restitution
 - 9.2.4.1.5. suspension
 - 9.2.4.1.6. expulsion
 - 9.2.4.2. in accordance with PCC Policy 5.19 Employee Disciplinary Policy, employee sanctions may include, but are not limited to,
 - 9.2.4.2.1. warning
 - 9.2.4.2.2. reprimand
 - 9.2.4.2.3. coaching
 - 9.2.4.2.4. performance improvement plan
 - 9.2.4.2.5. loss of privileges
 - 9.2.4.2.6. demotion
 - 9.2.4.2.7. dismissal

9.2.4.2.8. restitution

9.2.4.3. remedies for students may include, but are not limited to,

9.2.4.3.1. providing access to medical, mental health, victim advocacy, and academic support services

9.2.4.3.2. implementing a no contact order on the respondent

9.2.4.3.3. making adjustments to class schedules so that the respondent and complainant do not share classes or extracurricular activities

9.2.4.3.4. allowing the complainant to withdraw from a class, rearrange their exam schedule, switch classes, or retake a course without academic or financial consequences

9.2.4.3.5. offering an escort to accompany the complainant when walking between classes and/or activities

9.2.4.3.6. providing transportation accommodations

9.2.4.3.7. informing the complainant of their right to file a report with the police

9.2.4.4. remedies for employees may include, but are not limited to,

9.2.4.4.1. providing access to medical, mental health, and victim advocacy

9.2.4.4.2. implementing a no contact order on the respondent

9.2.4.4.3. offering an escort to accompany the complainant when walking on campus

9.2.4.4.4. providing transportation accommodations

9.2.4.4.5. informing the complainant of their right to file a report with the police

9.2.4.4.6. equitable relief, such as reinstating employment or any lost pay and benefits.

9.2.5. the procedures and permissible bases for the complainant and respondent to appeal.

- 9.3. If there is a determination that sex discrimination occurred, the Title IX Coordinator or Deputy Title IX Coordinator will, as appropriate:
 - 9.3.1. coordinate the provision and implementation of remedies to a complainant and other people identified as having had equal access to the College's education program or activity limited or denied by sex discrimination;
 - 9.3.2. coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions;
 - 9.3.3. take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the College's education program or activity;
 - 9.3.4. wait until the time period to file an appeal of the written determination expires before imposing any disciplinary sanctions against a respondent; and
 - 9.3.5. not discipline a party, witness, or others participating in the Title IX process for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

Section 10: Appeals

- 10.1. Either party may appeal a determination regarding responsibility, and from the College's dismissal of a complaint or any allegation therein, on the following bases:
 - 10.1.1. procedural irregularity that would change the outcome
 - 10.1.2. newly discovered evidence that would affect the outcome and that was not reasonably available when the determination or dismissal was made
 - 10.1.3. the Title IX Coordinator, Deputy Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.
- 10.2. Title IX appeals should be made, in writing to the Title IX Coordinator or Deputy Title IX Coordinator within ten (10) days from receipt of the written determination.
- 10.3. The Title IX Coordinator or Deputy Title IX Coordinator will:
 - 10.3.1. notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;

10.3.2. convene an ad hoc committee of three appropriately trained College personnel to review all documentation relevant to the complaint process.

10.4. The committee shall, within ten (10) days of receipt by the Title IX Coordinator or Deputy Title IX Coordinator of the written notice of appeal, make a written recommendation to the President to approve, disapprove or modify the recommendation of the Decision-maker.

10.5. The President will review the work of the committee, make a decision, and notify the parties in writing, within ten (10) days of receipt of the committee recommendation, to approve, disapprove or modify the recommendation of the committee.

Section 11: Retaliation Prohibited

11.1. College expressly prohibits retaliation. Complaints alleging retaliation may be filed according to PCC Policy 2.32 Non-Retaliation (for employee complainants) or PCC Policy 7.12 Student Grievance Process (for student complainants).

11.2. An individual with code of conduct violations that do not involve sex- based harassment but arise out of the same facts or circumstances as a notification or complaint of sex-based harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

11.3. The College must keep confidential the identity of complainants, respondents, and witnesses, except as may be permitted by FERPA, as otherwise required by law, or as necessary to carry out a Title IX proceeding.

11.4. The exercise of free speech rights protected under the First Amendment to the U. S. Constitution does not constitute retaliation.

11.5. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX complaint proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.

Legal Citation: [Title IX of the Education Amendments of 1972 \(U.S.C. §1681 - §1688\)](#), [N.C.G.S. 115D-77](#); [Colorado v. New Mexico, 467 U.S. 310 \(1984\)](#); [Gebser v. Lago Vista Independent School Dist., 524 U.S. 274 \(1998\)](#); [Davis v. Monroe County Bd. of Ed., 526 U.S. 629 \(1999\)](#);

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Cross-references PCC Policies 2.3 Affirmative Action and Equal Opportunity Plan, 2.17 Unlawful Harassment, 2.18 Sexual Assault, Policy 2.32 Non-Retaliation, 5.20 Employee Grievance Procedure, and 7.12 Student Grievance Process