

BARTON COLLEGE

NON-DISCRIMINATION/TITLE IX POLICY TP- 8

Policy Title	NON-DISCRIMINATION/TITLE IX POLICY
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Administrative Oversight	AVP for Human Resources

I. INTRODUCTION

Barton College is committed to equality of educational opportunity and does not discriminate against applicants, students, or employees based upon race, color, national origin, religion, sex, age, veteran status or disability.

Barton College supports the protections available to members of its community under all applicable federal laws, including Titles VI and VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 799A and 845 of the Public Health Service Act; the Equal Pay Act; the Age Discrimination Act of 1975; the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1974; the Vietnam Era Veteran's Readjustment Assistance Act of 1974; the Americans with Disabilities Act of 1992; and Executive order 11246, as amended by Executive Order 11375.

In compliance with Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1972, accommodations of the disabled extend to student programs, employment practices, elimination of physical barriers, and special assistance to disabled students and employees within the college.

This nondiscrimination policy covers admission, readmission, access to, treatment and employment in college programs and activities, including, but not limited to, academic admissions, financial aid, any services, and employment.

Any student or employee who believes that he or she has been discriminated against by

the College because of his or her race, color, national origin, religion, sex, age, disability or otherwise, should speak with the Title IX Coordinator/AV/AVP of Human Resources.

II. TITLE IX POLICY

Title IX of the Education Amendments of 1972 ("Title IX"), is a Federal civil rights law that prohibits discrimination on the basis of sex in education programs and activities. Barton College is committed to providing a safe environment for all of its students and employees free from discrimination on any grounds. Barton does not tolerate acts of sexual harassment, interpersonal violence, sexual misconduct, and sex and/or gender based discrimination. All members of the community should conduct themselves, therefore with integrity, respect and consideration for others. Anyone, including employees of Barton, students, contractors, or visitors who sexually harasses or discriminates against another will be addressed in accordance with this internal policy whether it takes place within Barton's premises or off site, including social events, business trips, training sessions or conferences as well as athletic events on or off-campus.

Barton understands the negative impact sexual misconduct can have on individuals and the Barton community and therefore strives to provide information and training such that it can be eliminated and prevented. To that end, the objectives of this policy are to:

- help define sexual misconduct and interpersonal violence so that each member of the community can recognize it.
- outline procedures for filing reports when it is suspected that a policy violation has occurred.
- explain the investigative process and possible sanctions and disciplinary measures to be enforced when a violation has occurred.
- provide knowledge of the responsibilities of all employees of Barton so that those involved in a violation of policy can be assisted.

A. Definitions and Examples of Prohibited Conduct:

Any of the following conduct on the basis of sex constitutes sexual harassment:

- Conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct (often called "quid pro quo" harassment); or
- Unwelcome conduct determined by a reasonable person to be so

severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or

- Sexual assault, dating violence, domestic violence, or stalking (as those offenses are defined in the Clery Act and the Violence Against Women Act).

Sexual harassment can be physical and psychological in nature. An aggregation of incidents can constitute sexual harassment even if one of the incidents considered on its own would not be harassing. Sexual harassment can occur regardless of the gender of a person being subject to the harassment and the gender of the harasser. Sexual harassment may also occur between people of the same gender. Some examples may include but are not limited to:

- 1.) Subjecting or threats of subjecting, an employee or student to unwelcome sexual attention or conduct or intentionally making performance of the employee's job or student's coursework more difficult because of that employee's or student's gender.
- 2.) Sexual or discriminatory displays or publications anywhere in Barton's workplace by Barton employees.
- 3.) Unwelcome sexual advances, propositions, or sexual comments, such as sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience.
- 4.) Preferential treatment or promises of preferential treatment in exchange for submitting to sexual conduct.
 - a. Soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward.
 - b. Soliciting or attempting to solicit a student to engage in sexual activity for a good grade or other advantage, educational or otherwise.
- 5.) Non-Consensual Sexual Intercourse:
 - a. Any sexual penetration or intercourse (anal, oral or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force.
 - b. "Sexual penetration" includes vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth to genital contact or genital to mouth contact.
- 6.) Non-Consensual Sexual Contact:
 - a. Any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force.

- b. "Sexual touching" includes any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another individual, or any other bodily contact in a sexual manner (examples include touching, pinching, patting, grabbing, brushing against another person's body or poking another's body)

7.) Sexual Exploitation involves a situation in which a person takes non-consensual or abusive sexual advantage of another. Examples of sexual exploitation include, but are not limited to:

- a. Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed).
- b. Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).
- c. Unauthorized taking, sharing, or distributing of pictures, videos or other media of a sexual nature.
- d. Prostitution.
- e. Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection, and further includes administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent.

8.) Relationship or Intimate Partner Violence (also known as Dating Violence or Domestic Violence) is abusive behavior that is used by an intimate partner to gain or maintain power and control over the other partner. Intimate partner violence can be:

- a. Physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person.
- b. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant, where the existence of such a relationship is determined based on the following factors:
 - i. Length of the relationship
 - ii. Type of the relationship
 - iii. Frequency of interaction between the persons involved in the relationship

9.) Stalking:

- a. A course of conduct directed at a specific person on the basis of actual or perceived membership in a protected class that is unwelcome, and would

- cause a reasonable person to feel fear, OR
- b. Repetitive and menacing conduct, purposely or knowingly causing emotional distress, or pursuing, following, harassing, and/or interfering with the peace and/or the safety of another.

B. STATEMENT ON CONSENT, CONFIDENTIALITY, AND PRIVACY:

Consent

Consent is knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.

1.) A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy. It is not an excuse that the individual respondent of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other.

Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint, and/or from the taking of incapacitating drugs.

2.) Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. Silence or the absence of resistance alone is not consent.

3.) A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.

4.) A minor below the age of consent according to state law cannot consent to sexual activity. This means that sexual contact by an adult with a person below the age of consent is a crime as well as a violation of this policy, even if the minor appeared to have consented to engage in the act.

Confidentiality and Privacy

All reports and investigations are treated confidential to the extent possible and information is disclosed strictly on a need-to-know basis. Additionally, should either party wish to acquire/use the other party's medical, psychological, or similar treatment records during a hearing process, written permission by that party is required and must be obtained via the Title IX Coordinator's office.

The identity of the complainant is usually revealed to the parties involved during the investigation and retaliation is not permitted in any form during and after the investigation toward the complainant or respondent. Any complainant who wishes to remain anonymous, may need to discuss their report with a confidential source, who by their position are able to maintain confidentiality; however, if it is desired that an investigation be conducted and action taken, it will be necessary to reveal those involved in the situation to thoroughly investigate the reported incident to its conclusion.

Any person found to have sexually harassed another will face disciplinary action, up to and including termination of employment if an employee of the College and up to and including expulsion if a student of the College. Any person who willingly files a false report and/or bears false witness against someone involved in a sexual harassment complaint may also be subject to the same discipline alternatives.

All information pertaining to a report of sexual harassment or investigation is maintained in secure files within the HR Department and/or Title IX Coordinator's office(s).

C. REPORTING PROCEDURES AND RESPONSIBILITIES:

1.) PROCEDURES:

Barton considers all incidents to be serious and strives to promptly investigate all allegations of sexual misconduct. If an employee or student feels that he or she is being subjected to sexual misconduct, he or she should:

- A. Immediately inform the person(s) that the conduct is unwelcome and needs to stop. Whether the conduct ceases or does not cease, or if the employee

- or student is unable to or is uncomfortable with addressing the person(s) directly, he or she should proceed to reporting the conduct outlined below.
- B. Report the incident to the appropriate supervisor, or the Title IX Coordinator (Assistant Vice President (AVP) of Human Resources).
 - c. Provide a written record of the date, time and nature of the incident(s) and the names of any witnesses. (This written record is helpful but not required.) It is important to report all concerns of sexual harassment or inappropriate sexual conduct to the appropriate supervisor, AVP of Human Resources/Title IX Coordinator as soon as possible so that an investigation can occur and appropriate action can follow.

2.) RESPONSIBILITIES:

- A. All Barton employees are considered responsible parties unless their position grants them confidentiality rights and are required to report any potential Title IX violations to the Title IX Coordinator.
- B. Confidential employees with state-conferred privileges are not required to report knowledge of sex/gender-based misconduct. They include:
 - Campus mental-health counselors
 - Chaplain
 - Physicians and health care providers
 - Those supervised by a confidential employee in the scope of their management of that employee.
- C. All management who are made aware of a possible Title IX violation must:
 - I. Take all reports seriously
 - II. Report all incidents to the title ix coordinator
 - III. Take appropriate action to prevent retaliation or prohibited conduct from recurring during and after any investigation or report.
- D. The Title IX Coordinator is responsible for general oversight of all Title IX issues including but not limited to:
 - I. Ensuring that both the complainant and the respondent are aware of the seriousness of a report of sexual harassment/misconduct.
 - II. Ensuring the College has jurisdiction over the potential infraction. Jurisdiction exists when the infraction incurs within the United States, and when the College has control over the respondent and the context in which the sexual harassment occurs. This includes any building owned or controlled by a student organization that is officially recognized by the College.
 - III. Explaining Barton's Title IX policy, investigation and hearing procedures to all parties involved including the informal resolution process option.
 - IV. Preparing and issuing a report for confirmation of the details reported to the coordinator.
 - V. Arranging for and providing oversight for the investigation of the reported events, the hearing process, the informal resolution process, and for the

administration of the final sanctions issued, if applicable, to the parties involved.

- a. The Title IX Coordinator or designee will review the information provided for the reported event to determine whether a policy violation may have occurred and warrants a formal investigation. All formal complaints will be investigated.
- b. It is up to the Title IX Coordinator to determine if an in-house investigation will be conducted or if an outside third party will be contracted to complete the investigation. All reports involving senior management at the vice-president level or above may be handled by an external third party in accordance with Barton's policies and procedures.
- c. If the Title IX Coordinator finds no evidence of a Title IX policy violation, he or she will issue a report to the parties involved, noting the finding as well as any recommendations relevant to the case including if applicable, referral to another grievance process if appropriate.
- d. Once a formal complaint is received, if both the complainant and the respondent agree in writing to an informal resolution process (which is available except in cases involving an employee and a student), the Title IX Coordinator will oversee this process which does not involve a hearing. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution and resume the grievance process with respect to the formal complaint.
- e. If a formal claim is submitted relative to a Title IX infraction, the Title IX Coordinator will refer it to the formal resolution process which involves the assignment of two investigators who will conduct the fact finding process, after which the final report is prepared and submitted to a hearing officer who will coordinate a hearing under the general oversight of the Title IX Coordinator.

- f. If a hearing is held under the formal resolution process, the complainant and respondent must have an advisor to represent them. If they do not have one, the College will provide an advisor for each party. During the hearing, the complainant and respondent will not be physically present in the room at the same time. The College may coordinate the hearing in a physical location and/or online accordingly. The advisor of each party will have a time to ask questions of the other party and to cross-examine testimony accordingly.
 - g. At the conclusion of the hearing, the hearing officer will review the investigative report and all evidence presented at the hearing before issuing a finding and sanctions if applicable. A final report summarizing the case investigation, hearing, findings, and sanctions will be issued to the Title IX Coordinator who will ensure both parties are notified of the results and all case information is retained confidentially in the Office of the Title IX Coordinator.
- vi. Ensuring the administration of sanctions if assigned.
 - vii. Providing instructions for recourse should any of the applied sanctions be breached.
 - viii. Providing direction should either party wish to appeal the final finding, sanction or both the finding and the sanction.

D. Interim Actions/Restriction

The College may take immediate interim actions as necessary to protect the community from a threat to the health or safety of the community as a whole, to any particular member of the community, or in cases where there may be a risk of a substantial disruption to the normal operations of the College. In all cases, the subject of the interim action will be given an opportunity to be heard by the Title IX Coordinator or designee on the necessity of the restriction within two (2) business days of the issuing of the restrictions. These actions may include, but are not limited to:

- 1.) Interim Suspension:
 - a. A student/organization who is suspended on an interim basis is subject to all of the same restrictions as if they had been suspended as a final sanction.
 - b. Suspended employees may be required to take time off with

pay as determined by the Title IX Coordinator. This may require the use of available paid leave.

2.) Interim Restrictions:

- a. These restrictions may include, but are not limited to: restricted access to facilities, housing and/or events, no-contact orders with specific individuals, etc. or any other restrictions deemed by the Title IX Coordinator or designee to be necessary to achieve the goals stated above.

NOTE: Barton will not pay for or make any arrangements for housing for any student removed from housing on an interim basis.)

- b. Altering any of these restrictions may be predicated on the requirement to engage in a psychological assessment, drug/alcohol testing, interviews, etc. at the discretion of the Title IX Coordinator or designee.

E. Investigations and Hearings

- 1.) Following receipt of notice of a possible violation of Barton's Title IX policy, the Title IX Coordinator or designee will contact the relevant parties to discuss what occurred and to help determine the next steps to be taken which may include a formal report and formal resolution process, a formal report and pursuit of the informal resolution process, or a referral to an alternative grievance process if applicable.
 - a. In all cases, Barton will seek to have cases reach resolution within sixty (60) calendar days of notice of the allegation, barring exigent circumstances. If exigent circumstances exist, the Title IX Coordinator, or designee will provide notice to the respondent and the complainant (if appropriate) of any delays or extensions.
 - b. The College may undertake a short delay (approximately 7-14 days, to allow for evidence collection) when criminal charges on the basis of the same behaviors that initiated the process are being investigated.
- 2.) All reporting parties and responding parties may designate an advisor of their choice, to help provide support during the investigation, interviews, and meetings called by the College. If a formal report is filed, each party must have an advisor to help them through the hearing process. If the reporting or respondent does not have an advisor, the College may appoint one for each party.
 - a. The general role of the advisor (prior to any formal hearing):
Advisors may accompany their designated party (reporting or responding) to all called meetings by the College. Typically, advisors are members of the campus community, but may be

anyone the parties choose. The advisor may not make a presentation or represent the complainant or respondent during the investigation or during interviews and meetings prior to the formal hearing for the case. The reporting and responding parties are expected to ask and respond to questions on their own behalf, without representation by their advisors. An advisor may consult with their advisee quietly or in writing, or outside the meeting room, during breaks, but may not speak on behalf of the reporting or responding parties.

- b. The role of the advisor during formal hearings: Advisors accompany their designated party (reporting or responding) to all hearing sessions. Advisors serve as support to their respective party and can assist with asking questions directly of their own party and other parties including witnesses presented as part of the case. Advisors cannot ask the complainant about his or her prior sexual history.
- 3.) Once a case is referred to investigation, two investigators will be assigned to the case to meet with all appropriate parties, write a report, and to issue an initial summary of findings using the College's standard of proof. The final report will be shared with all parties.
 - 4.) If the case is proceeding within the formal resolution process, a hearing will be scheduled with a hearing officer. At this time, advisors will be allowed to interview and cross-examine all parties to the case, asking relevant questions as part of due process. The complainant and respondent will not be cross-examined by each other and will not be present in the same room at the same time; however, their advisors are able to ask questions of each party accordingly. The College may conduct hearings online as part of the process.
 - 5.) If the case is proceeding within the informal resolution process, the Title IX Coordinator will oversee this process and issue a final report along with recommended actions/sanction(s), if applicable. No hearing takes place with the informal resolution process.

F. Investigative/Hearing Findings

The standard of proof used for decisions regarding responsibility for Title IX policy violations is the preponderance of evidence. A preponderance of evidence exists when a reasonable person, after evaluating all credible information available at the time of the investigation, would conclude that it is more likely than not that a violation has occurred. This standard is also employed when making determinations regarding interim restrictions/actions. The findings resulting from either an informal resolution process or a formal resolution process, which involves a hearing may be:

- 1) No Finding: In this case, a determination has been made that the

Respondent is not responsible for a policy violation.

2) Not Responsible: In this case, a determination has been made that insufficient evidence exists for a finding of responsible for any of the allegations.

3) Responsible: The investigator determines that sufficient evidence exists for a finding of "Responsible" for any of the violations.

G. Sanctions and Disciplinary Measures

Anyone who has been found responsible for a Title IX policy violation may incur any of the following sanctions and/or disciplinary measures. All sanctions may be imposed either singularly or in combination. The purposes of imposing sanctions are twofold: one, to protect the College community from behavior which is detrimental to the community and/or the educational mission of the College by stopping the behavior, preventing its recurrence and remedying the effect on the complainant and the community; and two, to assist in identifying acceptable parameters and consequences of future behavior. The sanction(s) imposed is/are intended to correspond with the severity or frequency of violations, as well as the Respondent's willingness to recommit him/herself to behaviors that fall within the applicable code of conduct of the College and are consistent with the mission and values of Barton College. Other factors that may affect the sanctions are:

The nature, severity of, and circumstances surrounding the violation:

- An individual's disciplinary history
- Previous reports involving similar conduct
- The need for sanctions/responsive actions to bring an end to the current actions found to be in violation of the applicable code of conduct and to prevent recurrence of those same or similar actions
- The need to remedy the effects of the actions that were in violation of the applicable code of conduct on the complainant and the community

a. Sanctions for Individual Students:

- I. Expulsion: Dismissal from the College without the ability to apply for re-admittance.

NOTE: Any student expelled for disciplinary reasons must vacate the campus within the period of time noted in the notice of expulsion (typically immediately). The student may not return to campus or College property without prior written permission by the Title IX Coordinator or designee. Failure to comply with this request will constitute criminal trespass.

- II. Suspension: Denial of enrollment, attendance, and other privileges at the College for a specified period of time. Permission to apply for re-admission upon termination of the period may be granted with or without conditions/restrictions. Students may be required to complete a period of disciplinary probation upon their return to the College.

NOTE: Any student suspended for disciplinary reasons must vacate the campus within the period of time noted in the notice of suspension (typically immediately). The student may not return to campus or College property during the term of the suspension without prior written permission by the Title IX Coordinator or designee. Failure to comply with this request will constitute criminal trespass.

- III. College Probation: A period of review and observation during which a student is under an official notice that subsequent violations of College rules, regulations, or policies are likely to result in a more severe sanction including suspension or expulsion from the College. While on conduct probation, a student may be considered to be "not in good standing" and may face specific limitations on his or her behavior and/or College privileges (see Conditions/Restrictions below).
- IV. Conditions/Restrictions: Limitations upon a student's behavior and/or College privileges for a period of time, or an active obligation to complete a specified activity. This sanction may include, but is not limited to: restricted access to the campus or parts of campus, required change in academic course section or delivery method, denial of the right to represent the College in any way, denial of housing or parking privileges, required attendance at a workshop, or participation in public service.
- V. Written Warning: An official reprimand that makes the misconduct a matter of record in College files. Any further misconduct could result in further disciplinary action.
- VI. Fines/Restitution: An order may be issued to make restitution or to pay a fine when a student has engaged in conduct that violates the Title IX Policy.
- VII. Withholding Diploma: The College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has a complaint, investigation or hearing pending.
- VIII. Revocation of Degree: The College reserves the right to revoke a

degree awarded from the College for fraud, misrepresentation, or other violation of College policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.

IX. Other sanctions: The College reserves the right to impose other sanctions as necessary to remain consistent with the mission and vision of Barton College. These may include, but are not limited to: mandated psychological assessment, research projects, drug/alcohol classes or testing, proof of employment or attendance at classes, etc.

X. Residence Life Specific Sanctions:

1. Permanent Housing Removal: Immediate removal from College housing with no ability to return.

NOTE: Any student permanently removed from College housing for disciplinary reasons must vacate the hall within the period of time noted in the notice of removal (typically immediately). The student may not return to any residence hall without prior written permission by the Title IX Coordinator or designee. Failure to comply with this request will constitute criminal trespass. Additionally, anyone removed from housing for disciplinary reasons remains subject to the termination clause of the housing contract, including payment of any fees or penalties.

2. Temporary Housing Removal: Immediate removal from College housing for a set period of time with an ability to reapply to return to College housing.

NOTE: Any student removed from College housing for disciplinary reasons must vacate the hall within the period of time noted in the notice of removal (typically immediately). The student may not return to any residence hall without prior written permission by the Title IX Coordinator or designee. Failure to comply with this request will constitute criminal trespass. Additionally, anyone removed from housing for disciplinary reasons remains subject to the termination clause of the housing contract, including payment of any fees or penalties.

3. Housing Relocation: Immediate removal from a specific hall within College housing, and reassignment to another hall.

NOTE: Any student removed from any specific hall within College housing for disciplinary reasons must vacate that hall within the period of time noted in the notice of relocation (typically immediately). The student may not return to the residence hall from

which they were removed without prior written permission by the Title IX Coordinator or designee. Failure to comply with this request may constitute criminal trespass and will result in more severe disciplinary action.

b. Sanctions for Student Organizations:

The following disciplinary sanctions may be imposed upon student organizations when they have been found responsible for violating the Code of Student Conduct. All sanctions may be imposed either individually or in combination. Disciplinary sanctions are imposed for the purpose of holding student organizations and their membership accountable for their actions and the actions of their guest(s), whether on campus or at any organization sponsored function.

- i. Permanent Revocation of Organizational Registration: "Permanent revocation" of the organization's registration means revocation without the ability to apply for new registration. Any organization whose registration is permanently revoked must cease all organizational activities upon receipt of the notice of permanent revocation. Any member of an organization whose registration has been permanently revoked shall relinquish any appointed or elected office held with that organization's governing body. Balances of all organizational funds granted by the College and/or the Student Government are to be surrendered to the Title IX Coordinator or designee. Office or housing space assigned by the College shall be vacated within five (5) business days (an organization under emergency suspension may be required to vacate space more quickly) from the date the notice of suspension is issued. Space vacated due to revocation may be reassigned to other eligible College organizations.
- ii. Suspension: Suspension means denial of rights and privileges of a registered organization for a specified period of time. Any organization whose registration is suspended or revoked must cease all organizational activities upon receipt of the notice of revocation or suspension. Any member of a suspended organization may not hold an appointed or elected office with that organization's governing body for the duration of the organization's period of suspension. Balances of all organizational funds granted by the College and/or the Student Government are to be surrendered to the Title IX Coordinator or designee. Office or housing space assigned by the College shall be vacated within five (5) College business days (an organization under emergency suspension may be required to vacate space more quickly) from the date the notice of suspension is issued. Space vacated due to suspension may be reassigned to other eligible College organizations. Leave to reapply for registration as a student organization may be granted with or without qualifications. Office or housing space assigned prior to suspension will not automatically be reassigned. The organization may reapply for a space assignment,

subject to availability. Suspended organizations will automatically be placed on probationary status for a minimum of one academic year following their renewed registration.

- iii. Probation: A period of review and observation during which a student organization is under official notice that subsequent violations of College rules, regulations, or policies could result in a more severe sanction including suspension. During the probationary period, a student organization is deemed "not in good standing" with the College and may be subject to one or any combination of the following conditions and/or restrictions:
 - a. Denial of the right to represent the College;
 - b. Denial of the right to maintain an office or other assigned space on College property;
 - c. Denial of the privileges of receiving or retaining funding; participating in intramurals; sponsoring any social event; sponsoring any speaker or guest on campus; participating in any social event or other activity; and engaging in rush or membership recruitment activities.
- iv. Conditions/Restrictions: Limitations upon a student organization's privileges for a period of time or an active obligation to complete a specified activity or activities. This sanction may include, for example, denial of housing or social privileges, etc.
- v. Written Warning: An official written reprimand making the misconduct a matter of record in College files for a specified period of time. Any further misconduct may result in further disciplinary action.
- vi. Restitution/Fines: An organization may be ordered to make restitution or to pay a fine when the organization has engaged in conduct which violates the Title IX policy.

c. Sanctions for Employees:

- i. Verbal or written warning with a copy placed in their official personnel file
- ii. Adverse performance evaluation
- iii. Demotion and/or reduction in wages
- iv. Transfer
- v. Suspension
- vi. Dismissal

H. Appeals

The reporting or Respondent may submit an appeal if they meet the appeal guidelines. The following should be noted with regard to appeals:

1.) General information:

- a. All appeals must be in writing to the Title IX Appeal's Officer.
- b. The presumptive stance of the Appeal's Officer is that the initial finding is correct. The burden is on the appellant to show error as outlined below in the Grounds for Appeal.
- c. All sanctions instituted are to be implemented, barring extreme exigent circumstances. Final exams, graduation and/or proximity to the end of a term are not considered exigent circumstances.
- d. Appeals are not intended to be full re-hearings of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal.
- e. The Appeal's Officer may, at his or her discretion request information regarding procedure from the investigator or Title IX Coordinator. Ideally, this information would not be necessary, as it should be included in the written Requests and/or response Memorandums.

2.) Grounds for Appeal:

- a. A procedural error or omission occurred that significantly impacted the outcome of the hearing or investigation (e.g. substantiated bias, material deviation from established procedures, etc.).
- b. To consider new evidence, unavailable during the original hearing or investigation, that, if true and credible, could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.

Note: when a party fails to provide a statement under advice of counsel during an investigation, and subsequent to the hearing decides to provide a statement, it will not be considered "new evidence" for the purposes of this ground. Additionally, subsequent findings of a criminal or civil court (e.g., dismissals, plea bargains, settlements) will not alone constitute sufficient grounds for appeal, but may be considered by the Appeal's Officer or designee if new evidence was the grounds for said finding.

- c. The sanctions are disproportionate to the responsible violation of policy.

3.) Procedure for Appeals

- A. A Request for Appeal must be submitted in writing to the Appeal's Officer within three (3) business days of notification of the

outcome of the formal investigation. All outcomes are assumed received by all parties three business (3) days after sent via mail or email. Any Request for Appeal not filed in a timely fashion will be denied. No exceptions to this timeline are permissible without the express permission of the Appeal's Officer.

- B. The Appeals Officer should not have been involved in the investigation and will review all Requests for Appeal to insure the request has standing. The Appeals Officer reviewing the Request may consider credibility, plausibility, and weight in their assessment of the Request.
- C. Any Request for Appeal will be shared with all parties (Respondent, Complainant, Investigator(s), Hearing Officer, and Title IX Coordinator) who may respond to the Request in a "Response Memorandum." All Response Memorandums must be submitted to the Appeals Officer for consideration within three (3) days of their notification of the Request for Appeal. All Response Memorandums will be shared with all parties.
- D. The Appeal's Officer, after considering all Requests and Response Memorandums, will make one of the following determinations within three (3) business days of receiving the final response Memorandum:
 - i. The Request for Appeal is denied and the original findings are affirmed. This decision is final and there is no appeal to this decision permitted by any party.
 - ii. The Request for Appeal is upheld and is being forwarded to the Title IX Coordinator for placement in the process based on the grounds under which the appeal is granted:
 - a.) If a procedural error or omission occurred that significantly impacted the outcome of the hearing, the case will be either:
 - Remanded back to be reheard by a new Hearing Officer. This is typically done in cases where the procedural error is so profound as to render the original officer too biased or influenced. OR,
 - Remand the case back to the original hearing body with instruction to repair the procedural error.
 - b.) If it is necessary to consider new evidence, unavailable during the original hearing or investigation, but is now available and could substantially impact the original finding or sanction, the case will be either:
 - Remanded back to the original hearing officer with instruction to consider the new evidence, OR,

- Remanded back to be reheard in its entirety by a new hearing officer. This is typically done in cases where the new evidence is accompanied by a procedural error so profound as to render the original officer too biased or influenced.

In rare cases, the Appeal's Officer may alter the finding or sanction based on the new evidence.

c.) If it is found that the sanctions are disproportionate to the responsible violation of policy, the case will be:

- Remanded back to the Title IX Coordinator to recommend new sanctions based on the Appeal.

E. Any decision will be communicated to all parties within three (3) business days, barring exigent circumstances, of the Appeal Officer's decision.

I. Retention of Records Regarding Reports of Sexual Discrimination and/or Sexual Misconduct:

All records related to reports of sexual discrimination and/or sexual misconduct, including reports, investigations, findings, and resolutions, shall be maintained in accordance with College records policies. All records pertaining to pending litigation or a request for records shall be maintained in accordance with instruction and/or advice from legal counsel.