WESTMINSTER COLLEGE

PROCEDURES FOR REPORTS AND INVESTIGATIONS AGAINST EMPLOYEES UNDER THE TITLE IX POLICY

Table of Contents

I. INTRODUCTION .................................................................................................................. 3
II. REPORTING ....................................................................................................................... 3
III. INFORMATION PROVIDED TO REPORTING PARTY .................................................... 4
IV. MEETING WITH REPORTING PARTY AND INITIAL ASSESSMENT .................... 5
V. REPORTING TO CLERY OFFICER ............................................................................. 5
VI. HEALTH AND SAFETY THREAT ASSESSMENT .................................................... 5
VII. COLLEGE ACTIONS FOLLOWING HEALTH AND SAFETY THREAT ASSESSMENTS ............................................................................................................. 6
   A. TIMELY WARNINGS ................................................................................................. 6
   B. SUPPORTIVE AND INTERIM MEASURES ............................................................. 6
   C. DETERMINATION REGARDING WHETHER INVESTIGATION PURSUED .......... 7
   D. NOTICE TO REPORTING PARTY AND RESPONDENT OF COLLEGE ACTIONS .. 8
   E. DOCUMENTATION OF INITIAL ASSESSMENT AND DETERMINATION REGARDING INVSTIGATION.................................................................................. 8
VIII. INVESTIGATION ......................................................................................................... 9
   A. INVESTIGATION OF OTHER FORMS OF DISCRIMINATION OR HARASSMENT 9
   B. ASSIGNMENT TO INVESTIGATORS ...................................................................... 9
   C. MEETING WITH RESPONDENT ............................................................................ 9
   D. NOTICE OF INVESTIGATION ............................................................................. 9
   E. INVESTIGATION PROCESS .................................................................................. 10
   F. DETERMINATION OF POLICY VIOLATION; STANDARD OF REVIEW .......... 12
   G. DETERMINATION OF SANCTIONS AND REMEDIAL MEASURES ..................... 12
   H. NOTICE OF DETERMINATION AND SANCTIONS .......................................... 14
IX. APPEAL OF DETERMINATION .................................................................................... 15
   A. GENERAL PROCEDURES ................................................................................... 15
   B. DECISION OF APPEAL PANEL; NO FURTHER APPEALS ............................... 16
X. CLOSURE OF INVESTIGATION FILE

A. NOTICE OF CLOSURE

B. RECORDS RETENTION
I. INTRODUCTION

Westminster ("College") is committed to providing a safe and non-discriminatory environment for all members of the College community. The College prohibits sexual assault, sexual and gender-based harassment, gender-based discrimination, sexual exploitation, interpersonal violence (including dating violence, domestic violence, and stalking), complicity, false reporting, and retaliation (collectively “prohibited conduct”). These forms of prohibited conduct, which are defined in Section V of the College’s Policy on Sexual Assault, Sexual and Gender-Based Harassment, Gender-Based Discrimination, and Interpersonal Violence (“Title IX Policy”), are unlawful, undermine the character and purpose of the College, and will not be tolerated.

This appendix identifies the procedures the College follows when it receives a report alleging prohibited conduct by an employee. The College uses these procedures to investigate and adjudicate any such allegations and to impose disciplinary sanctions against employees found responsible for violating the policy.1

II. REPORTING

The College encourages anyone who experiences or becomes aware of an incident of prohibited conduct involving an employee to immediately report the incident to the College through the following reporting options:2

- By contacting the College’s Title IX coordinator or a deputy Title IX coordinator by telephone, email, or in person during regular office hours at their respective locations, email addresses, and/or phone numbers:

  Jason Schwartz-Johnson
  Title IX Coordinator
  Malouf 107
  jsj@westminstercollege.edu
  (801) 832-2262

  Julie Freestone
  Deputy Title IX Coordinator
  Bamberger 106
  jfreestone@westminstercollege.edu
  (801) 832-2573

1 These procedures should be read in conjunction with the Title IX Policy. Certain terms used and not otherwise defined in these procedures are defined in the policy.

2 Certain College employees, referred to as responsible employees, are required to report to the Title IX coordinator all information disclosed to them about an incident of prohibited conduct. See Title IX Policy at Section IV(C).
Scott Gust  
Deputy Title IX Coordinator  
Foster 102  
sgust@westminstercollege.edu  
(801) 832-2449

- Online at westminstercollege.edu/titleix. A report may be made anonymously. However, if any information identifying the reporting party or respondent is given, the report will no longer be considered anonymous and the College will proceed accordingly; or
- By contacting Campus Patrol at (801) 832-2525.

A reporting party may choose to make a report to the College to pursue resolution under these procedures, may also choose to make a report to law enforcement, or do neither. A reporting party may pursue internal resolution and criminal action at the same time. A reporting party who wishes to pursue criminal action should contact law enforcement directly:

- 911 (for emergencies)
- Salt Lake Police Department (801) 799-3000

The College also offers access and referrals to confidential resources for individuals who are unsure about whether to report prohibited conduct or are seeking trauma-informed counseling or other emotional support in addition to (or without) making a report to the College.

<table>
<thead>
<tr>
<th>Resource</th>
<th>Telephone Number</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rape Recovery Center</td>
<td>(801) 467-7273</td>
<td>2035 South 1300 East</td>
</tr>
<tr>
<td>Coalition Against Sexual</td>
<td>(801) 746-0404</td>
<td>284 West 400 North, Open 9-5</td>
</tr>
<tr>
<td>Abuse/Rape and Sexual Assault</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State-wide crisis line</td>
<td>(888) 421-1100</td>
<td>24-hour crisis line</td>
</tr>
<tr>
<td>National Sexual Assault Hotline</td>
<td>(800) 656-4673</td>
<td>24-hour hotline</td>
</tr>
<tr>
<td>Cigna Life Assistance Program</td>
<td>(800) 538-3543</td>
<td>Employee Assistance Program – Full-time employees only</td>
</tr>
<tr>
<td>(EAP)</td>
<td></td>
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</tr>
</tbody>
</table>

A broad range of information, assistance, and supportive measures are available to reporting parties, complainants, and respondents as enumerated in Section VII (B) below.

### III. INFORMATION PROVIDED TO REPORTING PARTY

Upon receipt of a report of prohibited conduct committed by an employee, the Title IX coordinator will provide the following information to the reporting party as may be suggested by the circumstances:

1. The option to seek medical treatment and the importance of obtaining and preserving forensic and other evidence;
2. The right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
3. College and community resources, the right to seek appropriate and available supportive and interim measures as described in Section VII(B), and how to request those resources and measures;
4. The right to seek an investigation under these procedures;
5. The right to an advisor if an investigation is pursued, and the availability of trained staff and faculty to serve as an advisor; and
6. The College’s prohibition against retaliation and that the College will take prompt action in response to any act of retaliation.

IV. MEETING WITH REPORTING PARTY AND INITIAL ASSESSMENT

Upon receiving a report of prohibited conduct, the Title IX coordinator will offer to meet with the reporting party in person or by phone to discuss the report. At this meeting the items in Section III above will be re-addressed, and the Title IX coordinator will ensure that the reporting party receives or has received a written explanation of all available resources and options. The Title IX coordinator will assess or ascertain the following at this meeting:

1. The reporting party’s safety and well-being and any necessary supportive measures;
2. Any concerns or barriers the reporting party has about participating in a college investigation, including concerns regarding disclosure of their identity;
3. The general nature and circumstances of the report, including the name of the respondent, other parties involved, and any other party with knowledge of the reported incident;
4. The ages of the reporting party and the respondent;
5. Whether the reported information and any other available information provides a rational basis for concluding that there is a threat to the health or safety of the complainant or to any other member of the College community, as set forth in the Section VI.

At the meeting with the reporting party, the Title IX coordinator will not request that the reporting party recount the incident(s). Rather, they will only solicit information necessary to determine whether the reported prohibited conduct, if true, would be a violation of the policy.

V. REPORTING TO CLERY OFFICER

Within 24 hours or as soon as practicable, the Title IX coordinator will communicate the report to the College employee responsible for reporting under the Clery Act (“Clery officer”). The Clery officer will determine whether the report triggers any Clery Act obligations, including entry of the report in the daily crime log and/or issuance of a timely warning, and will take steps to meet those obligations.

VI. HEALTH AND SAFETY THREAT ASSESSMENT

If the Title IX coordinator determines that there is a rational basis for concluding that the respondent poses a threat to the health or safety of the reporting party or the College community, the Title IX coordinator will convene a meeting of the Threat Assessment and Behavioral Intervention Committee (“TABIC”). TABIC will consider the following risk
factors when determining whether the respondent poses a threat to the health or safety of the reporting party or to any other member of the College community:

1. The increased risk that the alleged perpetrator will commit additional acts of sexual or interpersonal violence, such as:
   a) whether there have been other sexual or interpersonal violence complaints about the same alleged perpetrator;
   b) whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence; or
   c) whether the alleged perpetrator threatened further sexual or interpersonal violence against the reported victim/survivor or others.
2. Whether the sexual or interpersonal violence was committed by multiple perpetrators;
3. Whether the sexual or interpersonal violence was committed by deceit or manipulation;
4. Whether the sexual or interpersonal violence was perpetrated with a weapon;
5. Whether the reported victim/survivor is a minor;
6. Whether the reported victim/survivor was incapacitated;
7. Whether the College possesses other means to obtain relevant evidence of the sexual or interpersonal violence (e.g., security cameras or personnel, physical evidence); and
8. Whether the reporting party’s report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

VII. COLLEGE ACTIONS FOLLOWING HEALTH AND SAFETY THREAT ASSESSMENTS

A. TIMELY WARNINGS

Following the threat assessment, the Clery officer will determine whether the respondent or any other individual identified in the report of prohibited conduct poses a serious and ongoing threat to the College community. If appropriate, the College will issue a timely warning in accordance with the Clery Act Timely Warning Policy.

B. SUPPORTIVE AND INTERIM MEASURES

The Title IX coordinator will implement whatever reasonable supportive and/or interim measures they deem appropriate, with or without the request of the reporting party, to ensure the safety and well-being of the reporting party and the broader College community. These measures may include the following:

- Housing relocation
- No contact orders limiting or preventing communication
- Limiting access to facilities, activities, or programs
- Changing work schedules, job assignments, or work locations
- Administrative leave
- Referrals to counseling services and other health providers on and off campus
- Referrals to community and national organizations and resources
Supportive measures are available to the reporting party before an investigation has been initiated and will be designed such that they have no impact on the respondent. Interim measures are available to the complainant and respondent once an investigation has been initiated until a final determination on a policy violation has been made, including after the parties have exercised their rights to appeal as set forth below. Interim measures will be designed such that they have minimal impact on the respondent unless the respondent poses a safety threat to the complainant or other members of the College community.

C. DETERMINATION REGARDING WHETHER INVESTIGATION PURSUED

1. Request for Investigation

When a reporting party requests an investigation in writing, the Title IX coordinator will consider the information provided by the reporting party to determine the course of the investigation including, in their discretion, whether the allegations meet the threshold of a policy violation and whether a formal investigation as described in Section VIII will be pursued.

2. Request for Anonymity, No Investigation, No Discipline

A reporting party may request that personally-identifying information not be shared with the respondent, that no investigation be pursued, and/or that no disciplinary action be taken. The College will seek to honor the reporting party’s request(s) if it is possible to do so while also protecting the health and safety of the complainant and the College community. The Title IX coordinator will consider the following factors in evaluating such request(s): (i) the totality of the known circumstances; (ii) the presence of any risk factors, as described in Section VI of these procedures; (iii) the potential impact of such action(s) on the reporting party and respondent; (iv) any evidence showing that the respondent made statements of admission or otherwise accepted responsibility for the prohibited conduct; (v) the existence of any independent information or evidence regarding the prohibited conduct; and (vi) any other available and relevant information.

- **Determination the request can be honored** – Where the Title IX coordinator determines that the request(s) can be honored, they may nevertheless take steps designed to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the reporting party and the College community including to offer supportive measures to the reporting party, to provide targeted training or prevention programs, and/or to provide or impose other remedies tailored to the circumstances.

- **Determination the request cannot be honored** – Where the Title IX coordinator determines that a reporting party’s request(s) cannot be honored, such as where to do so would impede the College’s ability to ensure the health and safety of the College community, the Title IX coordinator will take appropriate actions as may be suggested by the circumstances including initiating an investigation under these
procedures and/or arranging, imposing, or extending supportive or interim measures.

- **Determination to proceed with investigation** – Where the Title IX coordinator determines that the College must proceed with an investigation despite a reporting party’s request to the contrary, the College will make reasonable efforts to protect the privacy of the complainant. However, as part of the investigation, the College may be required to speak with the respondent and others who may have relevant information, in which case the reporting party’s identity may have to be disclosed in order for the respondent to have an opportunity to fully defend the accusations.

- **Reporting party determination not to participate** – Where a reporting party declines to participate in an investigation, the College’s ability to meaningfully investigate and respond to a report may be limited. In such cases, the Title IX coordinator may pursue the report if it is possible to do so without the reporting party’s participation in the investigation (e.g., where there is other relevant evidence of the prohibited conduct such as recordings from security cameras, corroborating reports from other witnesses, physical evidence, or any evidence showing that the respondent made statements of admission or otherwise accepted responsibility for the prohibited conduct). In the absence of such other evidence, however, the College will only be able to respond to the report in limited and general ways (e.g., through the provision of supportive measures). Although a report may be re-opened and investigated at any time, the College will only be able to pursue sanctions where the respondent is a current employee, student, or third party affiliated with the College.

D. NOTICE TO REPORTING PARTY AND RESPONDENT OF COLLEGE ACTIONS

The Title IX coordinator will promptly inform the reporting party of any action(s) undertaken by the College to respond to a health or safety threat to the reporting party or the College community, including the decision to proceed with an investigation. The Title IX coordinator also will promptly inform the respondent of any action(s) (including any interim measures) that will directly impact the respondent and provide an opportunity for the respondent to respond to such action(s). The Title IX coordinator retains the discretion to impose and/or modify any supportive or interim measures based on all available information. Interim measures will remain in effect until a final determination on a policy violation has been made, including after the parties have had the opportunity to exercise their right to appeal as set forth in these procedures. A reporting party, complainant, or respondent may challenge supportive or interim measures or other actions, or failure to impose supportive or interim measures or take other actions, by contacting the Title IX coordinator to address any concerns.

E. DOCUMENTATION OF INITIAL ASSESSMENT AND DETERMINATION REGARDING INVESTIGATION

The initial report, the health and safety threat assessment, and the determinations of the Title IX coordinator regarding whether an investigation is pursued will be documented and retained by the College in accordance with the College’s record retention policy.
VIII. INVESTIGATION

An investigation commences when the Title IX coordinator determines that information provided by a reporting party meets the threshold of a policy violation or the College initiates an investigation based on a health and safety threat assessment as described in Section VI.

A. INVESTIGATION OF OTHER FORMS OF DISCRIMINATION OR HARASSMENT

If a report of prohibited conduct also implicates other forms of discriminatory and/or harassing conduct prohibited by the EEO Policy, the Title IX coordinator will evaluate all reported allegations to determine whether the alleged prohibited conduct and the alleged EEO Policy violation(s) may be appropriately investigated together without unduly delaying the resolution of the report of prohibited conduct. Where the Title IX coordinator determines that a single investigation is appropriate, the investigation will be conducted in accordance with these procedures.

B. ASSIGNMENT TO INVESTIGATORS

After assessing any actual or perceived conflicts of interest and/or bias, the Title IX coordinator will designate one or more internal investigators or an external investigator to conduct a prompt, thorough, fair, and impartial investigation. All investigators will receive annual training on issues related to sexual assault, sexual and gender-based harassment, sex discrimination, dating violence, domestic violence, and stalking, and on how to conduct an investigation that is fair and impartial and that protects the safety of complainants, respondents, and the College community while promoting accountability.

C. MEETING WITH RESPONDENT

After an investigation is initiated, the Title IX coordinator will meet with the respondent to explain the investigation process, advise them of and explain any interim measures in place, and discuss interim measures and resources available to the respondent. At the meeting, the Title IX coordinator will provide the respondent a written notice of investigation and arrange for any reasonable interim measures the respondent requests.

D. NOTICE OF INVESTIGATION

The Title IX coordinator will notify the complainant and the respondent, in writing, of the commencement of an investigation. Such notice will (1) identify the complainant and the respondent; (2) specify the date, time (if known), location, and nature of the alleged prohibited conduct; (3) identify potential policy violation(s); (4) identify the investigator(s); (5) include information about the parties’ respective expectations under the policy and these procedures; (6) explain the prohibition against retaliation; (7) instruct the parties to preserve any potentially relevant evidence in any format; (8) inform the parties how to challenge participation by the investigator on the basis of bias or conflict of interest; and (9) provide a copy of the policy and these procedures.
E. INVESTIGATION PROCESS

1. Overview

During the investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, to identify witnesses who may have relevant information, and to submit questions that they believe should be directed by the investigator to each other or to any witness. The investigator will notify and seek to meet separately with the complainant, the respondent, and appropriate witnesses and will gather other relevant and available evidence and information, including, without limitation, electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email, and social media sites), and photographs (including those stored on computers and smartphones). The Title IX coordinator will meet with the investigators periodically to ensure that the investigation process is completed in accordance with applicable regulations and guidance and these procedures.

2. Review of Interview Notes

The complainant and respondent will have the opportunity to review and comment on the investigator’s notes from their respective interviews but will not have access to the notes from the other party’s or witnesses’ interviews. The investigators may or may not incorporate the comments into their investigation summary.

3. Advisors

During the investigation, the complainant and respondent have the right to choose and consult with an advisor. The advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation. The parties may be accompanied by their respective advisors at any meeting or proceeding related to the investigation under these procedures. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings. The College offers trained advisors to help the parties navigate the investigation process.
4. **Coordination with Law Enforcement**

The Title IX coordinator will contact any law enforcement agency that is conducting its own investigation to inform that agency that a College investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to the College in its investigation. At the request of law enforcement, the Title IX coordinator may delay the College investigation temporarily while an external law enforcement agency is gathering evidence. The Title IX coordinator will cause the investigation to promptly resume when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.

5. **Cooperation and Participation**

Employees are required to cooperate and participate fully in any Title IX investigation and/or request for information by the Title IX coordinator.

6. **Timeframe for Completion of Investigation; Extension for Good Cause**

Typically, the period from commencement of an investigation through delivery of the letters of determination to the parties will not exceed sixty (60) calendar days. This timeframe may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation; to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation; to accommodate the availability of witnesses and College faculty and staff; to account for College breaks or vacations; to account for complexities of a case including the number of witnesses and volume of information provided by the parties; to account for the failure of the parties to respond in a timely manner to requests for information or meetings; or for other legitimate reasons. The Title IX coordinator will notify the parties in writing of any extension of this timeframe and the reason for such extension.

7. **Site Visit(s)**

The investigator may visit relevant sites or locations and record observations through written, photographic, or other means.

8. **Expert Consultation(s)**

The investigators may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.

9. **Findings of Fact**

The investigation is a neutral fact-gathering process conducted by investigators who find facts; investigators do not make determinations of policy violations. Following
the fact-gathering process, the investigators will make findings of fact after consideration of the evidence, credibility of the witnesses, and any other available information including the following:

- **Prior or subsequent conduct** – The investigator may consider evidence of prior or subsequent conduct of either party in determining pattern, knowledge, intent, or motive. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar prohibited conduct.

- **Relevance** – The investigator has the discretion to determine the relevance of any proffered evidence and to include or exclude certain types of evidence. In general, the investigator will not consider statements of personal opinion or statements as to any party’s general reputation for any character trait. Rather, investigators will rely on direct observations and reasonable inferences from the facts.

- **Prior sexual history** – The investigator will never use the sexual history of a complainant or respondent as evidence of character or reputation.

10. **Investigation Summary**

After the investigators complete their investigation, they will prepare and submit to the Title IX coordinator an investigation summary which will include the names and dates of meetings with complainant, respondent, and witnesses; a summary of evidence; and a clear and concise statement setting forth their findings of fact. Any relevant documentation will be attached to the investigation summary.

F. **DETERMINATION OF POLICY VIOLATION; STANDARD OF REVIEW**

Following a review of the investigation summary and consultation with the investigators, the Title IX coordinator will make determinations of policy violations. Using the preponderance of evidence standard, the Title IX coordinator will determine whether it is more likely than not that the respondent engaged in prohibited conduct in violation of the policy.

G. **DETERMINATION OF SANCTIONS AND REMEDIAL MEASURES**

1. **Determination of Sanctions**

In the event the Title IX coordinator determines by a preponderance of the evidence that the respondent engaged in prohibited conduct in violation of the policy, the Title IX coordinator will determine appropriate sanctions. In determining appropriate sanctions for faculty, the Title IX coordinator will consult with the president, the provost, and the appropriate school dean, as further described in the faculty manual. In determining appropriate sanctions for staff, the Title IX coordinator may consult with the executive director of human resources.
The Title IX coordinator will consider the following factors in determining appropriate sanctions:

- The severity, persistence, or pervasiveness of the prohibited conduct;
- Whether the prohibited conduct is violent in nature and, if so, whether weapons were involved;
- The impact of the prohibited conduct on the complainant including, by way of example, their ability to participate effectively in College employment, programs, and activities;
- The impact or implications of the prohibited conduct within the College community with reference to the maintenance of a safe, nondiscriminatory and respectful environment conducive to learning, working, and living;
- Prior misconduct by the respondent known to the College, as determined by the respondent’s relevant prior disciplinary history at the College or elsewhere, and any known criminal convictions;
- Whether the respondent has accepted responsibility for the prohibited conduct;
- The sanctions that have been levied for similar prohibited conduct under similar circumstances in the past; and
- Any other mitigating, aggravating, or compelling factors.

2. Available Sanctions

Violations of this policy may result in sanctions and corrective actions, which can include, but are not limited to the following:

<table>
<thead>
<tr>
<th>DISCIPLINARY SANCTIONS FOR EMPLOYEES</th>
<th>Staff</th>
<th>Faculty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Verbal warning</td>
<td>Verbal warning</td>
<td></td>
</tr>
<tr>
<td>Written warning</td>
<td>Written warning</td>
<td></td>
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<tr>
<td>Required training or education</td>
<td>Required training or education</td>
<td></td>
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<tr>
<td>Transfer or demotion</td>
<td>Suspension with pay</td>
<td></td>
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<tr>
<td>Revocation of employment offer</td>
<td>Suspension without pay</td>
<td></td>
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<tr>
<td>Suspension with pay</td>
<td>Termination of contract</td>
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<tr>
<td>Suspension without pay</td>
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<tr>
<td>Termination of contract</td>
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<tr>
<td>Termination of employment</td>
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3. Remedial Measures

The Title IX coordinator will determine whether to impose any remedial measures for the protection or well-being of either party, including the extension of any interim measures in place during the investigation. This determination will include the time period for which the remedial measures will remain in effect. Upon request, the Title IX coordinator will consider additional remedial measures. If the Title IX coordinator determines that interim measures will not be continued as remedial measures, they may advise the party of the option of requesting an ADA accommodation through the human resources department if applicable under the circumstances.
H. NOTICE OF DETERMINATION AND SANCTIONS

1. Sanctions

If respondent is found responsible, sanctions will be set forth in the determination letters in the following manner:

- If the respondent has engaged in prohibited conduct, the determination letter to respondent will set forth all sanctions levied against them.
- If the prohibited conduct would not constitute a crime of violence under Utah or federal law, complainant’s letter will include only those sanctions that would directly impact them.
- If the prohibited conduct would constitute a crime of violence under Utah or federal law, the complainant’s letter will include all sanctions levied against respondent.

2. Determination Letters

The Title IX coordinator will draft separate but similar letters of determination for complainant and respondent that will set forth the findings of fact from the investigation; whether the respondent is responsible or not responsible for any policy violations; what sanctions, if any, will be imposed; and remedial measures, if any, that will be enacted, together with the rationale for the policy determination and sanctions. The determination letters will also advise the complainant and respondent of their right to a review by an appellate panel in accordance with these procedures. The Title IX coordinator will notify the complainant and respondent that their determination letter is available for review in the Title IX coordinator’s office.

3. Meeting with Parties to Review Determination

At a mutually agreeable time, the Title IX coordinator will meet with each party to review their determination letter and will provide a copy of their determination letter, discuss any sanctions and remedial measures that will be put into place, answer any questions regarding the investigation or determination, and notify them of their right to have the determination reviewed by an appeal panel.

4. Sanctions Effective

Sanctions will be implemented upon the expiration of five school days unless a timely appeal has been filed.
IX. APPEAL OF DETERMINATION

A. GENERAL PROCEDURES

1. **Grounds**

   Within five (5) school days of receiving the determination letter, the complainant or the respondent may appeal the determination in writing. The grounds for appeal are the following:

   - **Procedural Error** – The investigation was not conducted in accordance with these procedures and this resulted in substantial error in the determination of whether there was a policy violation.
   - **Bias** – The investigators conducted the investigation or the Title IX coordinator reached a determination in a biased or partial manner.
   - **New Evidence** – There is evidence which was available at the time of the determination but unknown to the Title IX coordinator and not in the possession of the party providing the new evidence that would substantially affect the determination.

2. **Appealing Party**

   To appeal a determination, the appealing party must submit a written statement citing the grounds for appeal and providing an explanation of their position to the Title IX coordinator or a deputy Title IX coordinator. Under circumstances alleging that the Title IX coordinator reached a determination in a biased or partial manner, a deputy coordinator will be assigned to serve as the acting Title IX coordinator for purposes of the appeal.

3. **Title IX Coordinator Duties Regarding Appeal**

   Upon receipt of a notice of appeal, the Title IX coordinator will:

   - Inform the party who has not appealed, in writing, of the appeal;
   - Appoint a panel of three trained staff or faculty members without conflicts of interest to serve as members of the appeal panel;
   - Provide the appeal panel the investigator’s interview notes; the investigation summary, including any documentary evidence; and the determination letters.

4. **Appeal Panel**

   Within ten (10) school days of their appointment, the appeal panel will meet at a mutually agreeable time to consider the information provided to them and to determine whether the determination should be upheld. The appeal panel has the discretion to
speak to the complainant, respondent, witnesses, investigators, or Title IX coordinator in reaching its conclusion but is not required to do so. The appeal panel will not review any other written evidence or documentation besides that provided by the Title IX coordinator.

B. DECISION OF APPEAL PANEL; NO FURTHER APPEALS

1. Affirmation of Determination

If the appeal panel determines by a majority vote that there was neither bias nor failure of process, it will affirm the determination and submit its affirmation letter to the Title IX coordinator. The determination will be final and not subject to further appeal. The Title IX coordinator will provide the affirmation letter to the parties within five school days.

2. Procedural Error

If the appeal panel decides by a majority vote that the investigation was not conducted in accordance with these procedures, it will submit a letter to the Title IX coordinator setting forth specific procedural error(s). The Title IX coordinator will direct the investigators to re-open the investigation and re-examine the evidence in light of the identified procedural error(s) and provide a revised investigation summary, if appropriate. The Title IX coordinator may assign new investigators to examine the evidence if appropriate under the circumstances. The Title IX coordinator will issue new determination letters and the determination may be appealed in accordance with these procedures by the party who did not file the original appeal.

3. Bias

- **Bias in Investigation** – If the appeal panel decides by a majority vote that the investigation was conducted in a biased or partial manner, it will submit a letter to the Title IX coordinator setting forth the specific ways in which the investigation was biased or partial. The Title IX coordinator will take such action as necessary to correct the bias or partiality, which may include assigning a new investigator(s) and/or re-opening the investigation. Once any additional fact finding is complete and a revised investigation summary is received, if appropriate, the Title IX coordinator will issue a new determination letter and the determination may be appealed in accordance with these procedures.

- **Bias in Determination** – If the appeal panel decides by a majority vote that the Title IX coordinator was biased or partial in reaching the determination, it will submit a letter to the acting Title IX coordinator setting forth the specific ways in which, in its opinion, the determination was biased or partial and requesting a review of the determination. The acting Title IX coordinator will review all documentation provided to the appeal panel and issue a new determination letter and the determination may be appealed in accordance with these procedures.
4. **No Further Appeal**

   There is no right of appeal beyond the appeal panel. Any concerns with the adequacy of an investigation can be addressed to the Department of Education, Office for Civil Rights, at OCR@ed.gov or (800) 421-3481.

**X. CLOSURE OF INVESTIGATION FILE**

A. **NOTICE OF CLOSURE**

1. **Notice to Parties**

   Within five (5) school days of the conclusion of the investigation (including exhaustion of all appeals), the Title IX coordinator will provide the complainant, respondent, reporting party, and witnesses written notification that the investigation has been closed and that retaliation is prohibited conduct.

2. **Notice to Executive Director of Human Resources or Provost**

   Within five (5) school days of the conclusion of the investigation (including exhaustion of all appeals), the Title IX coordinator will provide the executive director of human resources or provost, as appropriate, a copy of the respondent’s determination letter and a written notification that the investigation has been closed.

B. **RECORDS RETENTION**

   The College will retain all records relating to a report of prohibited conduct, including investigation files and personnel record documentation of disciplinary or other personnel actions, in accordance with the College’s record retention policy.