

Sexual Harassment & Non-Discrimination Policy (Title IX)

Adopted: November 2008

Reviewed: November 2025

Revised: November 2025

North Iowa Area Community College is committed to providing a working and learning environment free from discrimination, harassment, and retaliation. Discrimination, harassment and retaliation is contrary to the standards of the college community. North Iowa Area Community College considers discrimination, harassment and retaliation in all its forms to be a serious offense and it will not be tolerated. This policy refers to all forms of discrimination and harassment, including but not limited to: materially adverse treatment based on protected class, and sexual and other harassment (including sexual assault, domestic violence, dating violence, and stalking) by other students, employees, or third parties.

When an alleged violation of this anti-discrimination policy is reported, the allegations are subject to resolution using North Iowa Area Community College's "Process A" or "Process B," as determined by the Title IX Coordinator or designee, and as detailed below. This policy and procedures will be reviewed at regular intervals by the Title IX Coordinator. The College reserves the right to make changes to this policy as necessary, and once those changes are posted online, they are in effect. During any resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party. The Title IX Coordinator may also vary procedures materially with prior written notice to the Parties upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedures.

This policy is not a contract, is not intended to afford contractual or third-party beneficiary rights to any individual, and does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

To support this policy, North Iowa Area Community College will conduct periodic orientation and ongoing educational programs for faculty, students, and staff concerning all areas of Title IX, Clery Act, VAWA, the Campus SaVE Act, Iowa Civil Rights Act, and Iowa Code Chapter 260C. Copies of this policy and procedures will be continuously available at appropriate college centers and offices.

Policy Terms

- *Confidential Resource* means an employee, person, or entity, who by a legal privilege, professional obligation, or otherwise must maintain confidence of communications, including reports of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- *Day* means a business day when North Iowa Area Community College is in normal operation.
- *Formal Grievance Process* means "Process A," procedures for qualifying allegations of sexual harassment under Title IX (including sexual assault, dating violence, domestic violence, and stalking) in the United States involving students, staff, administrators, or faculty members which fall within the College's educational programs or activities. Process A complaints can be resolved formally or informally.
- *Official with Authority* (OWA) means an employee of the College explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the College. NIACC identifies an OWA to include the President and Vice-Presidents of the College.
- *Process B* means the resolution procedures for offenses that violate policies on protected class harassment or discrimination, including but not limited to sexual harassment, sexual assault, dating

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violence, domestic violence and stalking, but that do not fall under the jurisdiction or scope of Title IX.

- *Student* means any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with North Iowa Area Community College.
- *Title IX Coordinator* is at least one official designated by North Iowa Area Community College to ensure compliance with Title IX and the College's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

1. Policy on Non-Discrimination

It is the policy of North Iowa Area Community College not to discriminate in its programs, activities, or employment on the basis of race, color, creed, national origin, sex (including pregnancy), disability, age, sexual orientation, religion, actual or potential family, parental or marital status, or any other characteristic protected by local, state, or federal law.

2. Title IX Coordinator

The College's Title IX Coordinator(s) have the primary responsibility for coordinating North Iowa Area Community College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

Rachel McGuire serves as the Title IX Coordinator for under this policy as it relates to **students and applicants for admission**.

Lora Juhl serves as the Title IX Coordinator, and ADA/504 Coordinator, oversees implementation of the College's Affirmative Action and Equal Opportunity Plan, disability compliance and the College's policy on equal opportunity, harassment, and non-discrimination as it relates to **employees and applicants for employment**.

3. Independence, Conflict-of-Interest, and Training

The Title IX Coordinator oversees the Title IX process and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The other personnel involved in the process of investigating, responding, coordinating or otherwise assisting in the adjudication of complaints under this policy are vetted and trained as appropriate to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest, misconduct, or discrimination committed by the Title IX Coordinator, contact North Iowa Area Community College, President Joel Pedersen, 500 College Drive, Mason City, Iowa 50401, at Joel.Pedersen@niacc.edu or 641-422-4000. Concerns of bias or a potential conflict of interest by any other Title IX investigation, hearing, and resolution team member should be raised with the applicable Title IX Coordinator.

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4. Administrative Contact Information

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Title IX Coordinators

Students

Dr. Rachel McGuire, Title IX Coordinator, Rachel.McGuire@niacc.edu, 641-422-4104

Student Services Office, 641-422-4207

Employees

Lora Juhl, Title IX Coordinator, Lora.Juhl@niacc.edu, 641-422-4211

Human Resources Office, 641-422-4285

A party may also contact the Assistant Secretary for Civil Rights of the United States Department of Education.

5. Applicable Scope and Jurisdiction

General Scope: The core purpose of this policy is the prohibition of all forms of discrimination and discriminatory harassment as defined herein. Members of the College community, guests and visitors have the right to be free from discrimination, harassment, and retaliation. All members of the community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The purpose of this policy is to promote compliance with applicable campus, state and federal regulations; to allow for behavior that is inconsistent with College policies to be appropriately reported, investigated, and sanctioned; and to educate all members of the College community about implications and consequences of their behavior.

This policy covers conduct that occurs at all College-sponsored programs and activities, as well as conduct that occurs on the campus or on property owned or controlled by the College. The policy can also cover prohibited conduct that initially occurs off-campus when students or employees experience continuing effects of the off-campus acts in the educational or work setting that effectively deprive them of access to the College's educational program. The Policy covers conduct perpetrated by faculty, staff, students, and third parties, and if the Respondent is unknown or not a member of the North Iowa Area Community College community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report. Any person may file a complaint alleging a violation of this policy.

Scope under Title IX for Sexual Harassment: The College's scope under Title IX is limited to locations, events, or circumstances over which it substantially controls both the Respondent and the context in which the alleged harassment occurs, as well as any building owned or controlled by a student organization that is officially recognized by the College. The College's scope under Title IX is also limited to conduct against a person that occurs in the United States.

If a report or complaint falls under the College's scope under Title IX, the College will utilize Process A to respond, and will not proceed under any other College policy or procedure if doing so would interfere

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with any right or privilege provided to a party under Title IX. If the College determines that a report or complaint does not fall under the College's scope under Title IX, but nonetheless falls under this policy and/or its general scope, the College may still take action for such alleged conduct, including under Process "B" of this Policy.

6. Prohibited Conduct

A. Discrimination

As described in the College's Policy on Nondiscrimination, the College does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of such protected class characteristics. Any member of the College community whose acts deny, deprive, or limit the educational or employment access, benefits, and/or opportunities of any member of the College community, guest, or visitor on the basis of that person's actual or perceived membership in the protected classes listed above is in violation of the College's policy on nondiscrimination.

When brought to the attention of the College, any such discrimination will be promptly and fairly addressed and remedied according to the appropriate resolution process described elsewhere in this Policy.

B. Discriminatory Harassment

Students and employees are entitled to an employment and educational environment that is free of discriminatory harassment. North Iowa Area Community College's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom or the principles of free expression.

Discriminatory harassment is defined as unwelcome conduct on the basis of actual or perceived membership in a class protected by policy or law, and which creates a "hostile environment." North Iowa Area Community College does not tolerate discriminatory harassment of any employee, student, visitor, or guest, but will still act to remedy harassment whether or not it rises to the level of creating a "hostile environment."

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe **or** pervasive **and** objectively offensive.

When discriminatory harassment rises to the level of creating a hostile environment, the College may also impose sanctions on the Respondent through application of the appropriate resolution process below. The College also reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected status. Addressing such conduct may not result in the imposition of discipline under the College's policy, but may be addressed through respectful conversation, remedial actions, education, effective alternate resolution, and/or other informal resolution mechanisms.

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For assistance with reports, complaints, and resolution options and approaches, employees should contact the Title IX Coordinator.

C. Sexual Harassment

Prohibited acts of sexual harassment may be committed by any person upon any other person, regardless of the sex or sexual orientation of those involved.

Sexual Harassment, as an umbrella category, includes the offenses below:

1. Conduct on the basis of sex that satisfies one or more of the following:

- a. Quid Pro Quo: An employee of North Iowa Area Community College conditions the provision of an aid, benefit, or service upon an individual's participation in unwelcome sexual conduct;
- b. Hostile Environment: Unwelcome¹ conduct on the basis of sex that is so **severe, pervasive and objectively offensive** that it effectively denies a person equal access to a College education program or activity, including work. (Note: Alleged conduct that meets this criteria will be addressed through the Title IX resolution process, Process A. Unwelcome² conduct on the basis of sex that is so **severe or pervasive and objectively offensive** that it effectively denies a person equal access to a College education program or activity, including work, still constitutes discriminatory sexual harassment. Alleged conduct that meets this definition will be addressed outside of the Title IX resolution process under Process B).

2. *Sexual Assault or Abuse* (including all acts constituting "sexual abuse" under Iowa law³): One of the following offenses in which one has or attempts to have sexual contact or sexual penetration with another individual without their consent:

- a. Rape: the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person without consent of the victim;
- b. Fondling: the touching of the private body parts of another person for the purpose of sexual gratification without consent of the victim;
- c. Incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
- d. Statutory rape: sexual intercourse with a person who is under the statutory age of consent.

¹ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

² Sexual abuse" as contemplated by Iowa Code § 260C.14(18) is prohibited, and College students and employees should refer to this Policy for information on counseling, campus security, education, and the prompt reporting of acts constituting sexual abuse to law enforcement.

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3. *Dating Violence*: Violence committed by a person who has been in a romantic or intimate relationship with another. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
4. *Domestic Violence*: Felony or misdemeanor crime of violence committed by:
 - a. Current or former spouse or intimate partner of the victim;
 - b. Person with whom the victim shares a child in common;
 - c. Person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - d. Person similarly situated to a spouse of the victim under the laws of the State of Iowa or the jurisdiction in which the incident reported occurred; and
 - e. Any other person against an adult or youth victim who is protected from that person's act under the laws of the State of Iowa.

To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

5. *Stalking*: Engaging in a course of conduct toward another person under circumstances that would reasonably cause a person to fear bodily injury to themselves or others or to experience substantial emotional distress.

For the purposes of this definition—

- a. Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- c. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

As used in the offenses above, the following definitions and understandings apply:

Consent: Consent is knowing, voluntary, and clear permission by word or action to engage in sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine 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. The existence of consent is based on the

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totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

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 intimate relationship is not sufficient to constitute consent. Consent cannot be inferred from lack of resistance, passivity, or lack of response.

Consent is not effective if a party is incapacitated, or it results from the use of force.

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced.

Incapacitation: Incapacitation is defined as mentally and/or physically helpless, unconscious or unaware that the sexual activity is occurring. Where alcohol and/or other drugs (including prescription drugs) are involved, incapacitation is a state beyond drunkenness or intoxication. Warning signs that a person may be approaching incapacitation may include: slurred speech, vomiting, unsteady gait, odor of alcohol or other substance, combativeness, and/or emotional volatility. Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be incapacitated. "Should have known" is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment.

D. Other Prohibited Offenses

In addition to the forms of discriminatory and sexual harassment described above, North Iowa Area Community College additionally prohibits the following offenses as forms of discrimination/harassment when the act is based upon the Complainant's actual or perceived membership in a protected class. In this section, the definition of "consent" is the same as defined above.

1. *Sexual Exploitation*, defined as: taking non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that conduct does not otherwise constitute sexual harassment under this Policy. Examples of Sexual Exploitation include, but are not limited to:

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- a. Sexual voyeurism (such as viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent);
 - b. Invasion of sexual privacy;
 - c. Prostituting another person;
 - d. Recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;
 - e. Distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure, including the making or posting of revenge pornography;
 - f. knowingly transmitting a sexually transmitted disease (STD) or infection (STI) or human immunodeficiency virus (HIV) to another individual without informing the other person of the infection;
 - g. exposing one's genitals to another when the exposing individual knows or should have known that the other person did not consent to such exposure and objects to such exposure; causing another to expose genitals without that person's effective consent;
 - h. Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity;
 - i. Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections;
 - j. Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity;
 - k. Knowingly soliciting a minor for sexual activity;
 - l. Engaging in sex trafficking;
 - m. Creation, possession, or dissemination of child pornography.
2. *Threatening or causing physical harm*, extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person;
 3. *Intimidation*, defined as implied threats or acts that cause an unreasonable fear of harm in another;
 4. *Bullying*, defined as: Repeated and/or severe unwelcome aggressive behavior that is likely to intimidate or intentionally hurt, control, or diminish another person, physically and/or mentally.

Violation of any other College policies may constitute prohibited conduct herein when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

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E. Retaliation

Retaliation occurs when an individual takes negative action against another person because of that other person filed a complaint, participated in the resolution process of a violation of this policy, supported a Complainant or Respondent, and/or acted in good faith to oppose conduct that constitutes a violation of this policy. "Negative action" includes but is not limited to threats or actual violence against the person or the person's property, adverse educational or employment consequences, ridicule, taunting, bullying or ostracism. Retaliation is prohibited under this policy and is expressly prohibited by Title VII, Title IX and other state and federal laws.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a resolution proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. North Iowa Area Community College is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

7. Seeking Help After Sexual Harassment or Violence

If you are sexually assaulted or experience other violence, your first priority is to find a safe place. Next, seek medical attention; swift medical treatment is critical for protecting you from sexually transmitted diseases and preserving evidence. In Iowa, your medical exam and follow up visits may be free, even if you don't report the assault to the police.

In the immediate aftermath of a sexual assault or violence, you may not know whether you will eventually want to press charges. Taking care to preserve and collect evidence does not commit you to reporting anything. It's important that you not shower, bathe, urinate, douche, smoke, brush your teeth or drink anything before going to the emergency room. It's best if you don't change your clothes, but if you do, the clothes you were wearing should be brought to the ER in a paper bag (not plastic). If you suspect you have been drugged, either refrain from urinating or urinate in a clean container and bring it with you to the ER. Leave the assault scene as is so you don't inadvertently destroy evidence before you have had time to make a decision about reporting the assault.

- Local Area Hospital: MercyOne North Iowa Medical Center (641) 428-7000

North Iowa Area Community College also recommends and encourages victims involved in such incidents to seek counseling and/or identify a support person. A support person plays an important role in providing personal encouragement to a victim in a crisis situation.

Those experiencing sexual assault or violence may also contact the following:

- Crisis Intervention Service 641-424-9133, the crisis line for sexual assault is 800-479-9071
- Domestic Violence Hotline 1-800-799-7233 or 1-800-787-3224
- Iowa Sexual Abuse Hotline 1-800-284-7821

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- National Child Abuse Hotline 1-800-422-4453
- Prairie Ridge Integrated Behavioral Healthcare 641-424-2391
- Sexually Transmitted Diseases Hotline 1-800-227-8922

8. Notice/Complaints of Discrimination, Harassment, and/or Retaliation

North Iowa Area Community College encourages persons who have experienced any form of discrimination, harassment or retaliation to report the incident promptly, to seek all available assistance, and where appropriate, to report the incident to local law enforcement. North Iowa Area Community College takes reports of discrimination, harassment and retaliation very seriously and will work with all parties to ensure their safety and to investigate and adjudicate the situation.

A. Official College Reporting Options

Notice or complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

1. File a complaint with, or give verbal notice to, the Title IX Coordinator at the contact information listed above. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.
2. Report online at: [NIACC Etrieve form](#). Anonymous reports are accepted, but the College's response may be necessarily limited without the identity of the Complainant. North Iowa Area Community College tries to provide supportive measures to all Complainants, which is impossible with an anonymous report.
3. Report to a College Official With Authority (OWA). An individual who is subjected to conduct covered by this Policy is encouraged to make an official college report directly to the Title IX Coordinator, but may also report to a College Official with Authority, or OWAs. A report to an OWA is expected to be transferred immediately to the Title IX Coordinator. The OWAs at NIACC include the President and Vice-Presidents of the College.
4. Report to Other, Non-Confidential College Employees: At North Iowa Area Community College all employees (including student employees) are expected to report instances of alleged discrimination and harassment, including sexual harassment, to the Title IX Coordinator or an OWA, unless the employee is acting as a campus counselor covered by confidentiality as listed elsewhere in this policy. When a complainant tells a College employee, other than the Title IX Coordinator, about an incident involving conduct covered by this policy, the individual should not expect confidentiality in that communication. Likewise, any College employee is expected to promptly share with the Title IX Coordinator all known details of a report made to them concerning conduct covered by this policy. College employees are not to investigate and are not required to obtain proof of any actual policy violation.

For these reasons, Complainants may want to carefully consider whether they share personally identifiable details with non-confidential College employees. To the extent possible, information reported to any College employee will be shared only with officials with authority responsible for handling the College's response to the report. College employees expected to report who

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knowingly condone, fail to report, or fail to take action to remedy incidents of discrimination, harassment, and/or retaliation is a violation of North Iowa Area Community College policy may themselves be subject to sanctions and/or disciplinary action, up to and including termination.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from North Iowa Area Community College.

B. Confidential Reporting/Resource Options

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with the following Confidential Resources:

- Off-campus (non-employees):
 - *Licensed professional counselors and other medical providers*
 - *Local rape crisis counselors*
 - *Domestic violence resources*
 - *Local or state assistance agencies*
 - *Employee Assistance Program*
 - *Attorneys*

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics and/or professional credentials, except in extreme cases of immediacy of treat or danger or abuse of a minor or individual with a disability, or when required to disclose by law or court order.

North Iowa Area Community College employees who are confidential will timely submit anonymous statistical information for Clery Act purposes.

C. When a Complainant Requests Confidentiality and/or Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will weigh the request for confidentiality/no formal action against the College’s obligation to provide a safe, non-discriminatory environment for all students and employees, including the complainant. In conducting this analysis, the Title IX Coordinator will weigh the complainant’s request and preferences against factors such as: the seriousness of the alleged misconduct; the complainants’ age; whether there have been other complaints against the accused that increase the risk of the campus community; whether the alleged incident involved threatened future sexual violence or use of force or a weapon; whether an incident involved multiple respondents; whether an incident involved alcohol, drugs, or any date rape drug; whether the school has other methods for obtaining relevant evidence (i.e., security cameras or physical evidence); and, when the matter is under the scope of Title IX, to what extent non-participation by the Complainant may impact the availability of evidence and the College’s ability to pursue a Formal Grievance Process fairly and effectively.

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Based on this assessment, the College may decide not to honor the Complainant's desire for confidentiality, and investigate and adjudicate a violation of this policy, when doing so is not clearly unreasonable. If so, the Title IX Coordinator may sign a formal complaint to initiate a resolution process. The Title IX Coordinator will not become the Complainant. The College will not be able to ensure the Complainant's confidentiality, but will still offer and provide supportive measures.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the College to honor that request, the College will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

Note that North Iowa Area Community College's ability to remedy and respond to notice may be limited if the Complainant does not want North Iowa Area Community College to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing North Iowa Area Community College's obligation to protect its community.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by North Iowa Area Community College, and to have the incidents investigated and properly resolved through these procedures.

D. Law Enforcement

Along with the on-campus reporting options described above, North Iowa Area Community College strongly encourages a Complainant to make a report to local law enforcement, to the extent alleged discrimination or harassment constitutes a crime. Although reporting to law enforcement is strongly encouraged, at no time will any individual be forced to make a report to law enforcement as a precondition to using the internal reporting/resolution processes described in this policy. The Title IX Coordinator, Deputy Coordinators, OWAs or off-campus victim advocates can assist in notifying law enforcement, if a complainant chooses.

- Mason City Police Department (911)

9. After Notice/a Report is Made

A. Supportive Measures

North Iowa Area Community College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to North Iowa Area Community College's education program or activity, including measures designed to protect the safety of all parties or North Iowa Area Community College's educational environment, and/or deter harassment, discrimination, and/or retaliation.

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The Title IX Coordinator will promptly make supportive measures available to the parties upon receiving notice or a complaint. The Title IX Coordinator works with the Complainant to ensure that their wishes are considered with respect to the supportive measures that are planned and implemented.

North Iowa Area Community College will maintain the privacy of the supportive measures, provided that privacy does not impair North Iowa Area Community College's ability to provide the supportive measures. North Iowa Area Community College will act to ensure as minimal an academic impact on the parties as possible, and without an unreasonable burden the other party.

These supportive measures may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing mutual contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- [Timely warnings](#)
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

In most instances, both the complainant and the respondent will be instructed to mutually avoid all contact with the other. Such a directive serves as notice to both parties that they must not have verbal, electronic, written, or third-party communication with one another. If these instructions are not heeded, disciplinary action may be taken. In addition, a party may seek an order of protection, "no-contact" order, restraining order, or similar order issued by a criminal, civil, or tribal court. If an individual obtains an order of protection from a court in Iowa, the Title IX Coordinator should receive a copy to be aware of any limitations or restrictions and to develop a plan to abide by the court order. The College cannot enforce a violation of a court order, but can assist an individual in contacting law enforcement to report a violation. If any terms of a court order are unclear in their application to the campus environment, it is up to the parties to seek clarification through the court – the College cannot render a legal opinion or give advice other than to develop a plan to reasonably prevent violations of the order.

B. Emergency Removal or Administrative Leave

North Iowa Area Community College can act to remove a student Respondent entirely or partially

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from its education program or activities on an emergency basis when the Respondent's presence constitutes an immediate threat to the physical health or safety of any student or other individual. This risk analysis is performed by the Title IX Coordinator in conjunction with Student Life or Affairs using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the Respondent will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

Employee Respondents may also be placed on administrative leave, consistent with any policies or practices applicable to their employment status or classification.

C. Promptness

All allegations are acted upon promptly by North Iowa Area Community College once it has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but North Iowa Area Community College will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in North Iowa Area Community College's procedures will be delayed, North Iowa Area Community College will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

D. Privacy

North Iowa Area Community College will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the resolution processes in this policy, including the conducting of any investigation or hearing.

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North Iowa Area Community College reserves the right to designate which North Iowa Area Community College officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant FERPA.

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: Student Affairs/Life, Safety and Security, and the Human Resources Office. Information will be shared as necessary with Investigators, Hearing Officer/Decision Maker, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

North Iowa Area Community College may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so.

E. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to North Iowa Area Community College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

F. Federal Statistical and Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, North Iowa Area Community College must publish an annual report of certain crimes that fall within the scope of this policy that have occurred and their general location (on or off campus or in the surrounding area; no addresses are given). These reports contain statistical information only. All personally identifiable information is kept confidential.

Under the Clery Act, the College must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community. North Iowa Area Community College will ensure that a Complainant's name and other identifying information is not disclosed in such a warning, while still providing enough information for community members to make safety decisions in light of the potential danger.

G. False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action. Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under North Iowa Area Community College policy.

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H. Amnesty for Complainants and Witnesses

The North Iowa Area Community College community encourages the reporting of misconduct and crimes. Sometimes, parties or witnesses are hesitant to report to North Iowa Area Community College officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident.

It is in the best interests of the North Iowa Area Community College community that Complainants choose to report misconduct to North Iowa Area Community College officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, North Iowa Area Community College maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. A decision not to offer amnesty to a Respondent is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY ON HARASSMENT AND NONDISCRIMINATION

1. Overview

North Iowa Area Community College will act on any notice or complaint of violation of the policy on Sexual Harassment and Nondiscrimination Policy (“the Policy”) that is received by the Title IX Coordinator⁴ or OWA by applying these procedures, which includes two possible methods for resolution known as “Process A” or “Process B”.

2. Initiating a Formal Complaint

When the College learns of potential discrimination or harassment, in most cases outreach will be done with the Complainant to identify reporting options (discussed earlier) within and outside the College and to offer supportive measures. The Title IX Coordinator is available to meet to discuss those reporting options with the Complainant or answer questions from the Respondent.

A Complainant who proceeds with a formal complaint must do so in writing, and by filing a complaint with the Title IX Coordinator by hard copy, email, or any other writing evidencing a physical or digital signature, or otherwise verifying the Complainant is filing the complaint. If the Title IX Coordinator signs a formal complaint, the Title IX Coordinator will not become a party or Complainant for purposes of the processes below.

³ Anywhere this procedure indicates “Title IX Coordinator,” North Iowa Area Community College may substitute a trained designee.

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3. Initial Assessment of Applicable Scope/Process

Upon receipt of a formal complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, North Iowa Area Community College initiates a prompt initial assessment to determine the next steps the College needs to take.

North Iowa Area Community College will initiate at least one of three responses:

- Provide the Complainant with assistance and support only, based on the Complainant's request that the College not take action, where that request is not clearly unreasonable and/or consistent with the College's obligations under law;
- Determine the circumstances satisfy the jurisdictional requirements of Title IX at 34 CFR 106.45 and resolve the complaint under informal or formal "Process A" resolution procedures;
- Determine the circumstances do not satisfy the jurisdictional requirements of Title IX at 34 CFR 106.45 and dismiss the complaint under Title IX, but resolve the complaint under informal or formal "Process B" resolution procedures, or other policies and procedures, as applicable.

Specifically, Process A procedures apply only to qualifying allegations of sexual harassment under Title IX (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrators, or faculty members. If they do not, they must or may be "dismissed" as follows:

North Iowa Area Community College must dismiss a formal complaint or any allegations therein from Process A if, at any time during the investigation or hearing, it is determined that:

- 1) The alleged conduct would not constitute sexual harassment as defined in the policy hereinabove, even if proven;
- 2) The College does not substantially control both the Respondent and the context in which the alleged harassment occurs, nor did it occur in any building owned or controlled by a student organization that is officially recognized by the College;
- 3) The alleged conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in the education program, activity or workplace of North Iowa Area Community College.

North Iowa Area Community College may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by the College; or
- 3) Specific circumstances prevent North Iowa Area Community College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations.

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Upon any dismissal, North Iowa Area Community College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. This dismissal decision is appealable by any party under the procedures for appeal below. A Complainant who decides to withdraw a complaint may later request to reinstate or refile it.

Dismissing a complaint under Title IX may be procedural, and does not limit the College's authority to address a complaint with an appropriate process and remedies. If the Title IX Coordinator determines that the misconduct alleged does not fall within the scope of Title IX, other policies may apply and the matter may be referred for resolution, including under Process B.

Process B applies to the resolution of offenses such as violations of policies on protected class harassment or discrimination above. Process B can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as specified by the Title IX Coordinator.

4. Counterclaims

North Iowa Area Community College is obligated to ensure that the grievance process is not abused for retaliatory purposes. North Iowa Area Community College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator or the Investigator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

5. Disabilities Accommodations in the Resolution Process

North Iowa Area Community College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to North Iowa Area Community College's resolution process.

Anyone needing such accommodations or support should Disability Services if a student or the Human Resources Office if an employee, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

PROCESS A: Formal Grievance Process for Qualifying Allegations of Sexual Harassment Under Title IX

Process A procedures apply only to qualifying allegations of sexual harassment under Title IX (including sexual assault, dating violence, domestic violence, and stalking, as defined in this policy) involving students, staff, administrator, or faculty members.

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A. Right to an Advisor

The parties may each have an Advisor of their choice present with them for all meetings and interviews within the resolution process, if they so choose. A party may elect to change advisors during the process and is not obligated to use the same advisor throughout.

1. **Who Can Serve as an Advisor:** A party may select whoever they wish to serve as their Advisor. The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the North Iowa Area Community College community.
2. **Advisors in Hearings/North Iowa Area Community College-Appointed Advisor:** Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an Advisor for a hearing, North Iowa Area Community College will appoint an Advisor for the limited purpose of conducting any cross-examination.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. North Iowa Area Community College cannot guarantee equal advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, North Iowa Area Community College is not obligated to provide an attorney.

3. **Expectations of Advisors:** The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present.

All Advisors are subject to the same North Iowa Area Community College policies and procedures, whether they are College-appointed or not. Advisors are expected to advise their advisees without disrupting proceedings. The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or Decision-maker except during a hearing proceeding, during cross-examination. In conducting cross-examination, the advisor will not be abusive towards any party or witness, and will act with appropriate decorum.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

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4. Sharing Information with the Advisor: North Iowa Area Community College expects that the parties may wish to have North Iowa Area Community College share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor, but the Advisor will be under the same expectations of privacy as the party. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

North Iowa Area Community College requires a consent and privacy form that authorizes North Iowa Area Community College to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator, or provide similar documentation demonstrating consent to a release of information to the Advisor before North Iowa Area Community College is able to share records with an Advisor.

If a party requests that all communication be made through their Advisor, North Iowa Area Community College will not comply with that request.

B. Informal Resolution

After the filing of a formal complaint, the College may facilitate an informal resolution between the parties, and at any time prior to the Decision-Maker's determination of responsibility via the issuance of a written decision.

The Title IX Coordinator will assess the severity of the alleged harassment and the potential risk of a hostile environment for others in the community to determine whether informal resolution may be appropriate. Informal Resolution will not be available to resolve allegations involving an employee sexually harassing a student.

The College will not require the parties to participate in the Informal Resolution process as a condition of enrollment, continuing enrollment, or employment or continuing employment, or of any other right conferred by the College.

The Title IX Coordinator, or trained designee, will provide the parties with a written notice setting forth the allegations, the requirements of the informal resolution process set forth in this Policy, the right of any party to withdraw from the informal process and proceed with the formal complaint resolution process above, at any time prior to agreeing to a resolution; and any consequences resulting from the participation in the informal process, including the records that will be maintained or could be shared by the College. Both parties must voluntarily consent in writing to participation in the informal resolution process.

The Title IX Coordinator, or trained designee, will attempt to aid the parties in finding a mutually acceptable resolution to the complaint. This resolution will be reduced to writing and must be signed by the Complainant and the Respondent. Once both parties have voluntarily signed the written resolution, the written resolution becomes final and neither party can initiate the formal complaint

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resolution process above to resolve the allegations in the formal complaint. The written resolution is not subject to appeal.

C. Grievance Process Pool

The resolution processes below relies on trained investigators, administrators, or other individuals ("the Pool") to carry out the process. The Title IX Coordinator, in consultation with the President, appoints the Pool, which acts with independence and impartiality. The College reserves the right to appoint external Pool members with expertise in investigation and in chairing/ facilitating hearings.

Members of the Pool may serve in in the following roles, at the direction of the Title IX Coordinator:

- To act as an Advisor to the parties
- To serve in a facilitation role in informal resolution if appropriately trained
- To perform or assist with initial assessment
- To investigate complaints
- To serve as a hearing facilitator
- To serve as a Decision-maker regarding the complaint
- To serve as an Appeal Decision-maker

Pool Member Appointment: The Title IX Coordinator appoints the Pool, which acts with independence and impartiality. Appointments may be made to serve in all roles or only one or more specific roles. The Pool members receive annual training based on their respective roles. The materials used to train members of the Pool are publicly posted on the NIACC website.

D. Formal Resolution Process

1. Notice of Investigation and Allegations

The Title IX Coordinator will provide written notice of the investigation and allegations (the "NOIA") simultaneously to the parties.

The NOIA will include:

- a. The identity of the involved parties (if known),
- b. The misconduct being alleged,
- c. The date and location of the alleged incident(s) (if known),
- d. The policies potentially implicated,
- e. A statement that North Iowa Area Community College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- f. A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- g. The party's right to have an Advisor of their choosing, who may be an attorney,
- h. A statement informing the parties that North Iowa Area Community College's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process, the consequence for which is up to and

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including suspension or expulsion of a student or termination of an employee's employment;

- i. Detail on how the party may request disability accommodations during the interview process,
- j. The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have.

The NOIA shall be provided prior to the initial interview of any party, and within a sufficient amount of time to prepare. Parties will be also be provided advance notice in writing of the date, time, location, participants, and purpose of any interview, hearing, or meeting in the investigation and resolution process.

If, during the course of investigation, the College determines that additional allegations will be investigated as part of the pending complaint, the Title IX Coordinator or designee will provide written notice of the additional allegations to any identified Complainant(s) or Respondent(s).

2. Resolution Timeline

North Iowa Area Community College will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

3. Appointment of Investigators

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints one or more investigators to conduct the investigation who have received annual training to investigate campus matters of sexual harassment and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability to conduct the investigation. The investigation team may be composed of internal Pool members, external professionals, or a combination of both.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the President.

4. Investigation Timeline

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

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North Iowa Area Community College will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

5. Delays in the Investigation Process and Interactions with Law Enforcement

North Iowa Area Community College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

North Iowa Area Community College will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. North Iowa Area Community College will promptly resume its investigation and resolution process as soon as feasible. During such a delay, North Iowa Area Community College will implement supportive measures as deemed appropriate.

North Iowa Area Community College action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

6. Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; and obtaining available, relevant evidence, both inculpatory and exculpatory.

While in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

All investigations will be conducted as discreetly as is practicable. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

The burden of proof and the burden of gathering sufficient evidence to reach a determination of responsibility rests with the College and not with the parties. The investigation may include, but is not limited to, interviews with the Complainant, the Respondent, any witnesses identified by the parties or by the investigator as having information relevant to the complaint, and collecting and reviewing any relevant documents, communications, or physical evidence if possible. The Investigation typically includes the following:

- a. Interview the Complainant and Respondents separately. Each party will be asked to participate in an initial interview and may be asked to participate in a follow-up interview(s) as needed.

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- b. Each party may offer witnesses and other information, documents or other evidence relevant to the complaint, both inculpatory and exculpatory. Information, documents or other evidence provided by the parties and witnesses may be shared with both parties during the investigation.
- c. The order of the interviews will be determined by the Investigator(s) based on the circumstances of each complaint.
- d. The investigator(s) will make a good faith effort to contact and interview relevant witnesses.
- e. In the event Complainant or Respondent request reasonable accommodations during the investigation process due to a disability, the investigator(s) will consult with the Title IX Coordinator.

Neither party will be restricted in their ability to discuss the allegations or to gather and present relevant evidence; provided, however, that such communications shall not constitute harassment of or retaliation against any party.

The Investigator(s) will evaluate all relevant evidence, both inculpatory and exculpatory. The Investigator(s) will only access, consider, disclose, or otherwise use a party's treatment records made or maintained by a health care provider, or other records protected under a legally recognized privilege, if the party provides the investigator(s) with voluntary, written consent to do so. The Investigator will also deem irrelevant questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

7. Inspection and Review of the Evidence and Investigation Report

Prior to the completion of the investigation report, the Complainant and Respondent and, unless directed otherwise by the respective parties, their Advisor, will be provided the opportunity to inspect all evidence directly related to the allegations of the formal complaint, including both inculpatory and exculpatory evidence, and evidence that the College does not intend to rely on in reaching a determination. The College may require both parties and their Advisors to enter into a written agreement prohibiting the use or dissemination of evidence for any purpose other than those directly related to the parties' participation in resolution process.

Complainant and Respondent will be given *at least ten days* to inspect and review the evidence collected during the College's investigation and to submit a written response the Investigator(s) will consider in preparing a final investigation report. The parties can waive all or part of this inspection period.

The final investigation report will summarize the information and include any documents gathered. The investigative report will not include determination of responsibility for the complaint itself.

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The final investigation report will be distributed, concurrently, to both of the parties and the Title IX Coordinator at least ten (10) calendar days prior to a hearing to determine responsibility. Complainant and Respondent will be permitted to respond to the investigation report, in writing. In their written response to the investigation report, Complainant and Respondent may provide written comments regarding the relevance of the evidence included in or excluded from the investigation report, provide factual or other corrections to the report, and otherwise provide context for the report.

8. Hearing Decision-maker

North Iowa Area Community College will designate one or more Decision-Maker, at the discretion of the Title IX Coordinator, with one Decision-Maker designated to Chair the hearing. The Decision-Maker(s) cannot also be Investigators, Advisors, witnesses, or otherwise have had any previous involvement with the investigation.

At the discretion of the Title IX Coordinator, a Decision-Maker/Chair may be appointed to facilitate the hearing and reach a decision on responsibility for a policy violation based on a preponderance of the evidence, and reserve a decision on sanctions for a separate Decision-Maker who may or may not attend the hearing. The Decision-Maker(s) may be internal or external to the College.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Title IX Coordinator, Chair or designee.

9. Evidentiary Considerations in the Hearing

Any evidence that the Decision-Maker(s) determine is relevant and credible may be considered. The hearing does not consider questions and evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process.

10. Notice of Hearing

No less than ten (10) days prior to the hearing, the Title IX Coordinator, Chair or a designee will send notice of the hearing to the parties of the time and date of the hearing, as well as the identities of the Decision-Maker(s). Within five (5) calendar days, either the Complainant or Respondent may request, in writing to the Title IX Coordinator, that the Decision-Maker(s) be recused because of an identified conflict of interest. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

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If a party requests, the entire hearing will be conducted with the parties in separate rooms with technology enabling the Decision-Maker(s) and parties to simultaneously see and hear the witness answering questions.

11. Notice of Witnesses

At least five (5) calendar days before the hearing, the Decision-Maker(s) will notify the parties in advance which witnesses (including Complainant or Respondent) they would like to be present at the hearing. The Decision-Maker(s) or designee will notify these witnesses of the hearing date and time and that their presence has been requested. Any witness called by the Decision-Maker(s) will also be expected to answer questions from the parties.

- a. When notifying the parties of these witnesses, the Decision-Maker(s) will also request the parties identify any additional witnesses they wish to have present at the hearing for cross-examination.
- b. The Decision-Maker(s) or designee will notify relevant witnesses of the hearing date and time and that their presence has been requested by the party for cross-examination. The College cannot subpoena or compel a witnesses' presence.

12. Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting(s) with the parties to discuss pre-hearing matters, including inviting them to submit the questions or topics they wish to ask or discuss at the hearing, so that the Chair can consider and discuss their relevance ahead of time. However, this advance review discussion does not preclude a party from introducing evidence or an advisor from asking any cross-examination question at hearing.

The Chair, **only** with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party, the Chair may consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel and/or the Title IX Coordinator, or ask either or both to attend pre-hearing meetings.

13. Hearing Procedures

At the hearing, the Chair has the authority to hear and make rulings on the relevance of evidence, and matters of procedure.

The hearing is closed to the general public. Participants at the hearing will include the Chair, any additional Decision-Makers, the parties, Advisors to the parties, any called witnesses and anyone providing authorized accommodations or assistive services. Any additional persons present must be approved by the Chair.

There shall be no formal pleadings, legal memorandum, or motions filed in the hearing process.

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Hearings (but not post-hearing deliberations) are recorded by the College for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

The Chair conducts the hearing, which may include, but is not limited to, the following steps, in the Chair's discretion:

- a. The Chair explains procedures and introducing participants;
- b. The Chair will advise the parties if opening statements or closing statements are permissible;
- c. Investigator(s) may be asked to present a summary of the final investigation report, and will be subject to questioning by the Chair and the parties (through their Advisors). Neither the parties nor the Chair should ask the Investigator(s) their opinions on recommended findings, or determinations. If such information is introduced, the Chair will direct that it be disregarded.
- d. The parties may be asked if they have any additional evidence they wish the Decision-Maker(s) consider, and if the parties wish to comment on the Investigation Report and evidence. Any new evidence presented by a party, if admitted as relevant, will be provided to the other party to review and provide comment.

Testimony and questioning: Parties will be allowed, through their Advisors, to cross-examine all other parties and any witnesses, including fact and expert witnesses, and to ask all relevant questions and follow-up questions including those challenging party or witness credibility, directly, orally and in-real time. Any party without an Advisor will be appointed an Advisor by the College, with selection of the Advisor being at the sole discretion of the College. The following applies to cross-examination:

- a. All questions are subject to a relevance determination by the Chair. The advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing. The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive.
- b. The Chair may ask advisors to frame why a question is or is not relevant from their perspective, if the Chair so chooses. The Chair will explain any decision to exclude a question as not relevant. The Chair has final say on all questions and determinations of relevance, subject to any appeal.
- c. If a party's Advisor of choice refuses to comply with the College's established rules of decorum for the hearing, the College may require the party to use a different Advisor. If a College-provided Advisor refuses to comply with the rules of decorum, the Title IX Coordinator may provide that party with a different advisor to conduct cross-examination on behalf of that party.

The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

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14. Deliberation, Decision-Making, and Standard of Proof

The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The preponderance of the evidence standard of proof is used, which generally means “more likely than not.” The Decision-Maker(s) will independently evaluate the evidence, without deference to findings in the investigative report.

A written decision called a Notice of Outcome will be provided simultaneously to the parties and include the following information:

- a. allegations of sexual harassment,
- b. procedural history (including specifics about notifications of hearings, meetings and interviews, methods used to gather evidence and hearings held),
- c. findings of fact supporting the decision,
- d. conclusions regarding application of policy to the facts,
- e. rationale for the decision/finding of responsibility as it applies to each allegation,
- f. disciplinary sanctions imposed on respondent, if any,
- g. whether (but not the nature of) remedies designed to restore/preserve equal access to any or all education programs or activities that will be provided to the Complainant, and
- h. procedure and permissible bases for appeal.

The Title IX Coordinator will be responsible for coordinating the effective implementation of remedies, as well as any non-punitive or non-disciplinary supportive measures imposed.

The possible range of sanctions and remedies are detailed below. The Notice of Outcome, including the imposition of any sanctions, will become final upon written notification to the parties of the outcome of an appeal or, if there is no appeal, the date on which an appeal would no longer be considered timely. The Appeal Rights and Procedures are detailed below.

15. Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

16. Recording Hearings

Hearings (but not deliberations) are recorded by North Iowa Area Community College for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker, the parties, their Advisors, and appropriate administrators of North Iowa

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Area Community College will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

17. Sanctions

Student Sanctions

The following are the usual sanctions⁵ that may be imposed upon students or organizations singly or in combination⁶:

- a. *Warning*: A formal written statement that the conduct was unacceptable and a warning that further violation of any North Iowa Area Community College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- b. *Required Counseling*: A mandate to meet with and engage in either North Iowa Area Community College-sponsored or external counseling to better comprehend the misconduct and its effects.
- c. *Community service*: A requirement to complete a specific number of community service hours at an approved site.
- d. *Required training or education*: Required reading, writing, and/or reflection that enables the student to consider the effects of his/her actions and choices.
- e. *Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- f. *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at North Iowa Area Community College.
- g. *Expulsion/Dismissal*: Informs the student that he/she has lost his/her student status and that he/she can never again be a student at the college. The decision to expel a student must be confirmed by the President of North Iowa Area Community College and is considered final.
- h. *Building or Facility*: A directive that prohibits or limits access to a building or facility.
- i. *Activity Restriction*: A directive that prohibits or limits participation in an academic and/or non-academic program or activity.
- j. *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including North Iowa Area Community College registration) for a specified period of time.
- k. *Other Actions*: In addition to or in place of the above sanctions, North Iowa Area Community College may assign any other sanctions as deemed appropriate.

⁵ Recipient policies on transcript notation will apply to these proceedings.

⁶ Subject to North Iowa Area Community College's Student Code of Conduct.

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Employee Sanctions

For faculty and staff, sanctions could range from warning, reprimand, suspension with or without pay, demotion, or termination of employment, and may include such other forms of disciplinary action as appropriate under applicable College procedures, handbooks/manuals, or contracts. If a final decision imposes disciplinary action which constitutes termination of college personnel entitled to the hearing/judicial review procedures of Iowa Code chapter 279, such procedures shall be followed as required by law.

Sanctions may also include supportive measures regarding the complainant. The College will also consider providing remedies for the broader campus community, as may be necessary to remedy the effects of sexual harassment.

18. Appeals

Any party may submit a request for appeal ("Request for Appeal") to a Notice of Outcome. Only requests for appeals submitted in writing to the Title IX Coordinator within five (5) days of the delivery of the Notice of Outcome may be considered under these procedures. The Title IX Coordinator will transmit a timely Request for Appeal and the case file to the appropriate Appeal Officer (see Section A below) within three (3) days of receiving the Request for Appeal.

A single Appeal Decision-maker will Chair the appeal. The Decision-maker will not have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

Upon receiving a timely Notice of Appeal, the Title IX Coordinator will determine if the request meets the grounds for appeal (A Review for Standing). This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

a. **Grounds for Appeal:** Appeals are limited to the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, Investigator(s), or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

b. **Response to Appeal**

If any of the grounds in the Request for Appeal do not meet the grounds above, that request will be denied and the parties and their Advisors will be notified in writing of the denial and the rationale.

If a timely submitted Request for Appeal meets the grounds above, then the Title IX Coordinator will notify all parties and their Advisors that an appeal is proceeding and will provide each of them the Request for Appeal by mail, email and/or hard copy as appropriate.

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No later than five (5) business days after delivery of the Request for Appeal, each of the parties may submit a response to the portion of the appeal that involves them. All responses will be forwarded by the Title IX Coordinator to all parties for review and comment. The Title IX Coordinator will ensure that the Appeal Decision-Maker is provided with the following materials in addition to the Request for Appeal: (a) the Notice of Investigation and Allegations; (b) the Investigators' Final Investigation Report; and (c) the Notice of Outcome.

Once the time to submit a response to Appellant's Request for Appeal has lapsed, no party may submit any new request for appeal.

c. Appeal Outcome

The Appeal Officer will render a decision in no more than five (5) business days, barring exigent circumstances. All decisions apply the preponderance of the evidence standard. The Appeal Officer will send the decision ("Appeal Outcome") to the Title IX Coordinator.

The Title IX Coordinator will send Notice of Appeal Outcome to all parties simultaneously. The Notice of Appeal Outcome will affirm, reverse, or modify the Notice of Outcome. When the Appeal Office issues its decision in writing and simultaneously to the parties, the matter is final.

d. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed during the appeal process described above. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

19. Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop and remedy sexual harassment and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- a. Education to the community
- b. Permanent alteration of housing assignments
- c. Permanent alteration of work arrangements for employees
- d. Provision of campus safety escorts
- e. Climate surveys
- f. Policy modification and/or training
- g. Provision of transportation accommodations

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- h. Implementation of long-term contact limitations between the parties
- i. Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found, as long as the measures are not disciplinary nor constitute an unreasonable burden on either party.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by North Iowa Area Community College to the Respondent to ensure no effective denial of educational access.

North Iowa Area Community College will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the North Iowa Area Community College's ability to provide these services.

20. Recordkeeping

North Iowa Area Community College will maintain for a period of at least seven years records of:

- a. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
- b. Any disciplinary sanctions imposed on the Respondent;
- c. Any remedies provided to the Complainant designed to restore or preserve equal access to North Iowa Area Community College's education program or activity;
- d. Any appeal and the result therefrom;
- e. Any Informal Resolution and the result;
- f. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process; and
- g. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - The basis for all conclusions that the response was not deliberately indifferent;
 - Any measures designed to restore or preserve equal access to North Iowa Area Community College's education program or activity; and
 - If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

North Iowa Area Community College will also maintain any and all records in accordance with state and federal laws.

PROCESS B: Informal and Formal Resolution of All Other Complaints Outside the Scope of Title IX

Process B applies to the resolution of offenses such as violations of policies on protected class harassment or discrimination involving students, staff, faculty members, or third parties. Process B can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator. All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty, and staff policies.

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Any non-confidential College employee should report any information about potential violations of this policy to the Title IX Coordinator as soon as possible. The report should not be made to the person who is engaging in discrimination, harassment, or retaliation.

A report may be filed at any time regardless of the length of time between the alleged occurrence and the decision to report. However, the College strongly encourages persons to report promptly in order to facilitate an effective investigation and access to information. A delay in reporting may compromise the investigation, particularly if neither the reporter (and alleged victim if different from the reporter) nor the accused are employed by the College or enrolled as a student at the time.

a. Informal Resolution

Individuals are encouraged to tell the person causing or contributing to alleged discrimination or harassment that the conduct is unwelcome, and to stop. If this effort is unsuccessful or the complainant is not comfortable confronting the alleged perpetrator directly, the complainant may reach out to their immediate supervisor (if an employee) or the Title IX Coordinator.

The Title IX Coordinator will conduct a preliminary assessment of the report. Every effort will be made to handle such reports fairly, impartially, discreetly, and efficiently to every extent possible. If the report is under the scope of Title IX Sexual Harassment, the Title IX Coordinator will refer the complaint to Process A. If not, the Title IX Coordinator will proceed under this Process B.

Before pursuing the formal complaint process, every reasonable effort shall be made to constructively resolve issues with students, faculty, and staff. Whenever possible and safe, the problem or complaint should first be discussed with the individual involved in the complaint. If satisfactory resolution is not reached after discussion with the individual, the formal process will be initiated.

b. Formal dispute resolution and investigation process.

Upon a determination that a report or formal complaint of discrimination, harassment, and/or retaliation will not be resolved informally, the Title IX Coordinator will initiate a formal process which shall include assigning appropriate, trained college representatives to direct the investigation.

The parties will each have the opportunity to be advised by a personal advisor of their choice, at their expense, and to be accompanied by that advisor at any meeting or hearing. An advisor may only consult and advise his or her advisee, but not speak for the advisee at any meeting or hearing.

Investigation protocol:

The assigned investigator(s) shall:

- Meet with the complainant to finalize the complaint;
- Investigate the complaint as necessary based on the circumstances, including party and witness interviews and evidence gathering. The parties will each have the opportunity to participate in the investigatory process, and suggest witnesses and evidence;

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- Making a finding, based on a preponderance of the evidence whether a policy violation has occurred (preponderance of the evidence means “more likely than not”).

Following the investigation:

1. If the respondent is a student: Upon a finding by the investigator that the accused individual violated the policy, the matter will be referred for a potential sanction and an appeals hearing under the Student Code of Conduct.
2. If the accused individual is an employee: Upon a finding by the investigator that the accused individual violated the policy, the matter will be referred to the appropriate administrator/department for disciplinary action or other appropriate action as appropriate under applicable College procedures, handbooks/manuals, contracts, or law.

Under applicable law, in cases of alleged sexual assault, dating violence, domestic violence, and stalking, the complainant will be permitted to participate in the full disciplinary process as a party. The parties will also be notified simultaneously in writing of the outcome of any disciplinary proceeding, as well as any changes to those results or disciplinary actions prior to the time that such results become final. If there is a right to appeal, the right is granted co-equally to the parties. The parties will be notified simultaneously in writing of the final outcome of an appeal, if applicable.

In all other cases, the complainant will be kept informed as appropriate to resolve the complaint and provide remedial measures.

Sanctions for policy violations may include all sanctions listed above under Process A.