



# HARASSMENT, DISCRIMINATION, AND SEXUAL MISCONDUCT GUIDELINES



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# Triton College

## Harassment, Discrimination, and Sexual Misconduct Guidelines

(Updated September 2020)

### 1. Introduction

Triton College does not discriminate on the basis of sex in the educational programs and activities it operates. The essence of laws prohibiting sex discrimination in schools is that an institution may not exclude, separate, deny benefits to, or otherwise treat differently any person on the basis of sex unless expressly authorized to do so under relevant law.

Triton College is committed to sustaining a learning and working environment that is free from sexual harassment, including dating violence, domestic violence, sexual assault, sex-based threats, bullying on the basis of sex, stalking, retaliation, and other sexual harassment and misconduct. Triton College strongly encourages individuals to report any sex discrimination or harassment to Triton's Title IX Coordinator or Deputy Title IX Coordinator using contact information contained in Board policy and these Guidelines. This helps maintain a safe and productive environment for all members of our community.

These Guidelines explain the processes for reporting sexual harassment and filing a sexual harassment complaint; conduct that is prohibited as sexual harassment; the investigative processes for sexual harassment complaints; informal resolution processes available in some cases; potential outcomes, including remedies and consequences for policy violations; rights and responsibilities of parties and witnesses; and resources available to the campus community for sexual misconduct-related concerns.

These Harassment, Discrimination, and Sexual Misconduct Guidelines are consistent with requirements in state and federal law including Title IX of the Education Amendment of 1972 (Title IX), the Clery Act, the Violence Against Women Act (VAWA), the Illinois Preventing Sexual Violence in Higher Education Act, and the Illinois Human Rights Act (IHRA) requirements.

### 2. Reporting Misconduct

Any student, employee, applicant for admission or employment, or other person who believes that any student, employee, applicant for admission or employment, or other person has been subjected to sex discrimination, including sexual harassment and other misconduct and discrimination based on sex, gender, gender identity, or failure to conform to stereotypical notions of masculinity or femininity, is encouraged to promptly report the conduct to the Triton Title IX Coordinator or Deputy Title IX Coordinator.

Amnesty may be given to individuals reporting sex discrimination, including sexual harassment or other misconduct. Amnesty is immunity for individuals who report in good faith an alleged violation of the college's policies prohibiting sex discrimination, including sexual harassment and other misconduct, where reporting might subject the complainant to a disciplinary sanction by the institution, such as for a student conduct violation.

**2.1 To file a complaint alleging sex discrimination, including sexual harassment and other misconduct, contact the Title IX Coordinator at:**

Andrea Bangura, M. Ed. (for misconduct toward students)  
Dean of Students/Deputy Title IX Coordinator  
Triton College  
Room B-240A  
2000 Fifth Ave  
River Grove, Illinois 60171  
708-456-0300 ext. 3868  
Emails: [andreabangura@triton.edu](mailto:andreabangura@triton.edu)

Students can file a complaint online at  
[www.triton.edu/titleixreportstudent](http://www.triton.edu/titleixreportstudent)

Joe Klinger (for misconduct toward staff and others)  
Associate Vice President of Human Resources | Title IX Coordinator  
Triton College  
Room P-105  
2000 Fifth Ave  
River Grove, Illinois 60171  
708-456-0300 ext. 3743  
Email: [joeklinger@triton.edu](mailto:joeklinger@triton.edu).

Faculty and staff can file a complaint online at  
[www.triton.edu/titleixreportemployee](http://www.triton.edu/titleixreportemployee)

### **3. Required and Confidential Reporting**

#### **3.1 Confidential Reporting**

Confidential Advisors will maintain confidentiality *except* in extreme cases of immediate threat or danger to self or others or suspected abuse of a minor. Confidential reporters will submit timely, anonymous, aggregate statistical information for Clery purposes unless they believe it would be harmful to a specific employee or student.

#### **Designated Confidential Advisors**

Sandra Berryhill, MS  
Confidential Advisor  
Triton College  
2000 Fifth Ave  
River Grove, Illinois 60171  
Office B-240I  
708-456-0300 ext. 3752  
[sandraberhill@triton.edu](mailto:sandraberhill@triton.edu)

Leslie Wester, MA, LCPC

Counselor | Confidential Advisor  
Triton College  
2000 Fifth Ave  
River Grove, Illinois 60171  
Office D-122C  
708-456-0300 ext. 3257  
[lesliewester@triton.edu](mailto:lesliewester@triton.edu)

Tracy Wright, MA, LCPC  
Counselor | Confidential Advisor  
Triton College  
2000 Fifth Ave  
River Grove, Illinois 60171  
Office D-122  
708-456-0300 ext. 3807  
[tracywright@triton.edu](mailto:tracywright@triton.edu)

### **3.2 Student and Employee Resources**

#### **Sarah's Inn Domestic Violence Agency**

Services offered in English and Spanish  
Office locations in Chicago and West Cook County  
Cook County Domestic Violence Courthouse  
Legal advocacy available at:

Cook County Domestic Violence Courthouse – 555 Harrison St, Chicago, IL 60607  
Maywood Courthouse – 1500 Maybrook Dr, Maywood, IL 60153  
24-Hour Crisis Line (708)386-4225  
Text Line: (708) 792-3120  
[www.sarahsinn.org](http://www.sarahsinn.org)

*Additional Services:* Partner Abuse Intervention Program (in English and Spanish • fees apply)

#### **Pillars Community Health Innovative Provider of Health and Social Services**

Services offered in English, Spanish, and Arabic  
Office location in LaGrange Park  
Legal advocacy available at:

Bridgeview Courthouse – 10220 S 76<sup>th</sup> Ave, Bridgeview, IL 60455  
Maywood Courthouse – 1500 Maybrook Dr, Maywood, IL 60153  
24-Hour Crisis Line: (708) 485-5254  
[www.pillarscommunity.org](http://www.pillarscommunity.org)

*Additional Services:* Constance Morris House Emergency Shelter

#### **Perspectives – High Quality Services to Improve Performance**

Student/Employee assistance program  
20 N Clark Street, Suite 2650 Chicago, IL 60602  
Mental Health services  
(866) 866-7556

#### **Mujeres Latinas En Accion – Empowering Latinas through Service and Advocacy**

Services offered in English, Spanish, and Portuguese  
Office locations in Chicago and North Riverside  
Legal advocacy available at:  
Bridgeview Courthouse – 10220 S 76<sup>th</sup> Ave, Bridgeview, IL 60455  
Maywood Courthouse – 1500 Maybrook Dr, Maywood, IL 60153  
24-Hour Crisis Line (312) 738-5358  
[www.mujareslatinasenaccion.org](http://www.mujareslatinasenaccion.org)

### **Arab American Family Services – Caring and Compassionate Assistance**

Services offered in English, Arabic, and Spanish  
Office location in Bridgeview  
Legal advocacy available at:  
Cook County Domestic Violence Courthouse - 555 Harrison St., Chicago, IL 60607  
Bridgeview Courthouse – 10220 S 76<sup>th</sup> Ave, Bridgeview, IL 60455  
Rolling Meadows Courthouse – 2121 Euclid Ave, Rolling Meadows, IL 60008  
24-Hour Crisis Line (708) 945-7600  
[www.arabamericanfamilyservices.org](http://www.arabamericanfamilyservices.org)

### **Free Legal Assistance Related to Domestic Violence**

**Greater Chicago Legal Clinic** – (312) 726-2938, <https://www.gclclaw.org/>  
**Illinois Coalition for Immigrant and Refugee Rights (ICIR)** - (312)332-7360, <https://www.icirr.org/>  
**Legal Aid Chicago** – (312) 341-1070, <https://www.legalaidchicago.org/>  
Documentation of legal right to be in the country is not required for matters involving domestic violence.

### **Triton College Police Department**

The Triton College Police Department is commissioned with full police powers pursuant to the Illinois Compiled Statutes. The Police Department is a 24-hours a day, 7 days a week agency that enforces all state and local laws as well as College rules and regulations. Services are offered in Spanish and English or another language via the translation service.

2000 North Fifth Avenue  
Building N, Room 206  
River Grove, Illinois 60171  
Phone: (708) 456-6911  
TDD: (708) 452-8115  
Fax: (708) 583-3119

### **See Something, Say Something**

[investigations@triton.edu](mailto:investigations@triton.edu)

### **Non-Emergency Police Inquiries**

[tcpd@triton.edu](mailto:tcpd@triton.edu)

### **3.3 Request for Confidentiality**

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 any form of resolution to be pursued, they may make such a request to the Title IX Coordinator or the Deputy Title IX Coordinator who will evaluate that request in light of the duty to

ensure the safety of the campus and the duty to comply with federal law. Information reported and compiled in compliance with the Jeanne Clery Act lists only the date of the incident, time of the incident, location where the incident occurred, a brief and vague description of the type of incident, and a disposition of the actions taken by Triton College Police Department. Personally identifiable information may reside in the reports made by Triton College's Police Department or in reports made to the Title IX Coordinator or Deputy Title IX Coordinator and are not for public view except as required by law. In cases indicating a pattern, predation, threat, weapons, and/or violence, Triton College is not likely able to honor a request for confidentiality. In other cases, where circumstances allow the College to honor a request for confidentiality, the College will offer resources, interim remedies, and/or supportive measures to the complainant and/or the alleged victim of the misconduct, but will not otherwise pursue formal action. A complainant has the right to have and can expect Triton College to take formal reports seriously and to have those incidents investigated and properly resolved through these procedures.

Even where a confidentiality request cannot be reported, only a small group of officials who need to know will be informed of the report and facts related thereto, including Human Resources for employees and Student Affairs for students. The circle of people with this knowledge will be kept as narrow as possible to preserve both parties' rights and privacy but may include, as necessary, investigators, witnesses, the respondent and any other person or entity as necessary or required by law.

**3.4 Required Reporters:** All College employees have a duty to report all acts of dating violence, domestic violence, harassment, threats, and bullying on the basis of sex, retaliation, sexual harassment, sexual misconduct, and stalking, unless they fall under the "Confidential Reporting" section above. Because employees are Required Reporters, complainants may want to consider carefully whether they share personally identifiable details with College employees, as those details must be shared with the Title IX Coordinator or Deputy Title IX Coordinator. Employees must share all details of the reports, including the name of the complainant and respondent, if known. Failure of a required reporter, as described in this section, to report an incident or incidents of dating violence, domestic violence, harassment, threats, and bullying on the basis of sex, retaliation, sexual harassment, sexual misconduct, gender identity, sexual orientation, or stalking is a violation of College policy and subject to disciplinary action. The designation of such parties as "Required Reporters" does not render the individuals "Officials with Authority" under Title IX; see Section 17.2, below.

As soon as a Required Reporter has been notified of an incident, they should provide a report to the Title IX Coordinator or Deputy Title IX Coordinator to ensure supportive measures and other academic accommodations can be provided, as warranted and reasonably available, as quickly as possible. Supervisors of Required Reporters shall not create additional processes within a department nor investigate a complaint before reporting to the Title IX Coordinator or Deputy Title IX Coordinator.

Required Reporters can access and submit their Incident Reporting Form at [https://cm.maxient.com/reportingform.php?TritonCollege&layout\\_id=1](https://cm.maxient.com/reportingform.php?TritonCollege&layout_id=1) .

### **3.5 Report and Complaint Processes in Conjunction with a Police Investigation**

All student and employee conduct processes are separate from law enforcement investigations; a conduct investigation and police investigation may occur at the same time. The Triton College Police Department or local police department is the contact for a police investigation, and the Title IX Coordinator is the contact for a conduct investigation.

When concurrent criminal charges are or may be pending, the College may adjudicate complaints without regard to either civil or criminal prosecution. College processes may proceed before, during, or after court proceedings. The College may delay or extend timelines provided for in these Guidelines as reasonable and necessary based on concurrent law enforcement proceedings.

The College encourages, although does not require, individuals to report sexual violence and any other criminal offenses to the police.. Reporting to police does not commit an individual to prosecute, but will allow the gathering of information and evidence by law enforcement. The information and evidence may be used in future criminal prosecution, College conduct actions, and/or civil actions against the perpetrator.

On-campus, incidents can be reported to Triton College Campus Police at (708) 456-0300 ext. 3206 or in-person at any of the Campus Police locations. If an incident occurs off-campus, it can be reported to the local law enforcement with jurisdiction in the location where it occurred.

**Preservation of Evidence:** The preservation of evidence, which can include information and tangible materials, is essential for both campus disciplinary proceedings and law enforcement investigations. Any evidence obtained prior to, and throughout, the reporting and investigative process may support a finding that the alleged prohibited conduct or criminal offense occurred. Potential evidence, including, but not limited to, clothing, drinks, glasses, electronic communication (e.g. emails and text messages), and photographs, should be preserved.

**3.6 Limitations of Confidentiality:** Triton College will make every reasonable effort to preserve an individual's privacy and protect the privacy of information when requested. Reports will be treated confidentially to the extent permitted by these Guidelines and relevant law. Granting a complainant's request for anonymity may negatively impact the College's ability to address misconduct and prevent its recurrence.

**3.7 Procedure Used.** For all reports or complaints alleging "Title IX Sexual Harassment" as defined below in the Title IX Sexual Harassment Grievance Procedures, the Title IX Sexual Harassment Grievance Procedures will be used to process the report or complaint. Processing a report or complaint under the Title IX Sexual Harassment Grievance Procedures does not preclude processing some or all allegations of a report or complaint under other policies and procedures, to the extent allowed by Title IX and other laws.

For all reports or complaints of discrimination or harassment on the basis of sex other than Title IX Sexual Harassment, the General Grievance Procedures below will be used to process the report or complaint.

## **General Grievance Procedures (Sections 4–16)**

**4. Accommodations and Supportive Measures:** When the college has notice of an allegation of Prohibited Conduct as defined by these General Grievance Procedures, the Title IX Coordinator or

Deputy Title IX Coordinator may impose supportive measures, which will generally remain in effect during the Title IX Investigation. Supportive measures are temporary actions taken by the College prior to concluding the investigation, which may be applied to the complainant, respondent, and other involved Triton community members as appropriate to ensure their safety and well-being and may limit campus, educational, and employment access. Supportive measures may be requested verbally or in writing by the complainant or the respondent, or the College can initiate the supportive measures in the absence of a request at any time during the process.

**4.1** The College may take steps to provide supportive measures to limit the effects of the alleged harassment. Supportive measures may include and if reasonably available:

- ✚ Class reassignment
- ✚ Academic accommodations
- ✚ Interim leave from the college
- ✚ Limitation of college sponsored activities, both on and off campus
- ✚ Housing accommodations
- ✚ No contact directive\*
- ✚ Safety escorts
- ✚ Parking restrictions
- ✚ Employment reassignment
- ✚ Administrative leave with or without pay
- ✚ Other appropriate actions as necessary to stop the Prohibited Conduct, prevent its recurrence, and remedy its effect.

\*Should you need an Order of Protection, please reference page 6, section 3.2 “Student and Employee Resources”.

If requested by the complainant or respondent, and if reasonably available, the College may assist the parties in:

- ✚ Accessing legal, medical, and academic assistance;
- ✚ Imposing a campus no contact order;
- ✚ Exploring options to address academic concerns, such as transferring class sections, taking an incomplete in a class, or filing a grade grievance;
- ✚ Informing complainant of right to report incident to campus or law enforcement;
- ✚ Educational measures that do not identify the complainant but address violations;
- ✚ Rescheduling exams and assignments.

**Supportive measures may be implemented at any time, even if originally declined.**

**4.2 Accommodations in the Event of No Investigation:** Even if the College decides not to confront the respondent because of the complainant’s request for confidentiality, the Title IX Coordinator will still offer supportive measures to limit the effects of the alleged harassment.

## **5. Prohibited Conduct**

Each of the following sections contains definitions of conduct which, if true, would be prohibited conduct under College policy. Reports or complaints of such conduct will be addressed by these General Grievance Procedures unless the conduct is Title IX Sexual Harassment as defined below in the Title IX Sexual Harassment Grievance Procedures.

**5.1 Dating violence** is violence and abuse committed by a person to exert power and control over another person with whom they have been in a social relationship of a romantic or intimate nature. Dating violence often involves a pattern of escalating violence and abuse over a period of time. Dating violence covers a variety of actions and can include physical abuse, psychological and emotional abuse, and sexual abuse. It can also include “digital abuse,” the use of technology, such as smartphones, the internet, or social media to intimidate, harass, threaten, or isolate a person.

**5.2 Domestic Violence** is a pattern of abusive behavior in a relationship that is used by a family or household member to maintain power and control over another family or household member. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behavior that intimidates, manipulates, humiliates, isolates, frightens, terrorizes, coerces, threatens, hurts, injures, or wounds someone. Family or household members include but are not limited to:

- ✚ Family members related by blood or marriage
- ✚ People who are married or used to be married
- ✚ People who share or used to share a home, apartment, or other dwelling
- ✚ People who have or say they have a child in common
- ✚ People who have or say they have a blood relationship through a child
- ✚ People who are dating or used to date
- ✚ People with disabilities and their personal assistants/caregivers

**5.3 Sexual Assault** is any type of sexual contact or behavior that occurs without consent of the recipient. Falling under the definition of sexual assault is sexual activity such as forced sexual intercourse, molestation, incest, fondling, rape, statutory rape, and attempted rape. It includes sexual acts against people who are unable to consent either due to age or lack of capacity.

#### **5.4 Nonconsensual Sexual Activity.**

##### **What is consent to engage in sexual activity?**

###### **Consent is not:**

- ✚ Automatic - even if there is a prior relationship
- ✚ Silence or passivity - lack of resistance does not imply consent
- ✚ If consent is obtained once, it does not imply consent to other forms of sexual activity
- ✚ A reasonable fear that the person or another will be injured if the person does not submit to or engage in the sexual activity
- ✚ Obtained if the person is incapacitated due to mental condition or drug or alcohol use, or is asleep or unconscious.

###### **Consent is:**

- ✚ An affirmative decision by all participants to engage in mutually acceptable sexual activity;

- ✦ Unambiguous, clear, knowing, and voluntary approval given by words or demonstrated actions to engage in sexual activity;
- ✦ A decision that must be made freely and actively by all participants;
- ✦ Clarification from the other participant about a willingness to continue sexual activity if any confusion or ambiguity on the issue of consent arises at any time during the sexual activity.

Consent is informed, freely and actively given, and uses mutually understandable words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Silence or passivity is not consent. The use of intimidation, coercion, threats, force, or violence negates any consent obtained. Consent is not effective if obtained from an individual who is incapable of giving consent due to lack of consciousness, age, mental disability, or incapacitation due to ingestion of drugs or alcohol. Initiators of sexual activity are responsible for obtaining clear communication of consent.

Consent cannot be given if the following occur:

**Incapacitation** is the inability, temporarily or permanently, to make informed judgements or give consent because an individual is asleep, unconscious, or unaware that sexual activity is occurring. Where alcohol or other drugs are involved, incapacitation is a state beyond impairment or intoxication. Evaluating incapacitation where alcohol and other drugs are involved requires an assessment of whether a person should have been aware of the complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a reasonable person. An individual who engages in sexual activity with someone the individual knows or reasonably should know is incapable of making a rational, reasonable decision about whether to engage in sexual activity is in violation of these guidelines.

**Coercion** is the use of pressure that compels another individual to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, implied threats or blackmail which places a person in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include threatening to "out" someone based on sexual orientation, gender identity, or gender expression or threatening to harm oneself if the other party does not engage in the sexual activity. Coercing an individual into engaging in sexual activity is a violation of these guidelines.

**Force** is the use or threat of physical violence to overcome an individual's freedom of will to choose whether or not to participate in sexual contact. Force renders an individual unable to consent. Such action would cause a person to fear their physical or psychological well-being. For the use of force to be demonstrated, there is no requirement that a complainant resists the sexual advance or request. However, resistance by the Complainant will be viewed as a clear demonstration of non-consent.

**5.5 Sexual Misconduct:** Engaging in non-consensual contact of a sexual nature. Sexual misconduct may vary in its severity and consists of a range of behaviors or attempted behaviors including the following examples:

- ✚ Unwelcome sexual touching:
  - Touching an unwilling or non-consensual person's intimate parts (such as genitalia, groin, breast, buttocks, mouth, or clothing covering the same);
  - Touching an unwilling person with one's own intimate parts; or forcing an unwilling person to touch another's intimate parts;
- ✚ Exposure: Engaging in indecent exposure, sexual acts in a public place, voyeurism, or with a non-consensual person with any object or body part;
- ✚ Non-consensual sexual assault: Penetrating any bodily opening of an unwilling or non-consensual person with any object or body part;
- ✚ Forced sexual assault: Penetrating any bodily opening of an unwilling or non-consensual person with any object or body part that is committed either by force, threat, intimidation, or through exploitation of another's mental or physical condition (such as lack of consciousness, incapacitation due to ingestion of drugs or alcohol, age, or mental disability) of which the respondent was aware or should have been aware.

Sexual exploitation is covered under the category of sexual misconduct.

**5.6 Sexual Harassment** is a form of prohibited sex discrimination and includes any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access or creates a hostile or abusive educational environment.

(Also see Sexual Harassment Board Policy #4145 in Student handbook and at [https://www.triton.edu/globalassets/media/documents/board-policy-manual/4000/policy\\_4145.pdf](https://www.triton.edu/globalassets/media/documents/board-policy-manual/4000/policy_4145.pdf))

**Examples of Prohibited Sexual Harassment:**

- ✚ Repeated requests for dates and sex
- ✚ Sexually oriented humor or language
- ✚ Kissing sounds, whistling, cat calls
- ✚ Obscene phone calls
- ✚ Comments about sexual likes/dislikes
- ✚ Comments about sexual behavior.
- ✚ Leering or ogling
- ✚ Repeated "love" letters
- ✚ Sexually oriented electronic messages or images
- ✚ Email/screen-savers/desktop "wall paper"
- ✚ Intrusive touching including pats, hugs, squeezes, pinches, and/or brushing up against someone
- ✚ Unwanted kissing
- ✚ Unwanted fondling

**5.7 Harassment, Threats, and Bullying on the basis of sex:** Engaging in subjectively and objectively offensive verbal abuse, threats, intimidation, harassment, coercion, bullying, or other conduct that threatens or endangers the mental or physical health/safety of any person or causes reasonable apprehension of such harm that is sufficiently severe or persistent to limit a student's ability to participate in or benefit from an education program or activity or to create a hostile or abusive educational environment.

Discrimination based on sex, gender, gender identity, gender expression, sex- or gender-stereotyping, and sexual orientation violates law and other campus policies. This discrimination may occur in situations where there is a power differential between the parties (faculty-student) or where the persons share the same status (student-student) and between same sex, opposite sex, gender nonconforming, or transgender individuals.

**5.8 Stalking** is a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear for their own safety or the safety of others such as:

- ✦ Repeated and unwanted communications through phone calls, mail, emails, or social media sites,
- ✦ Following the individual to work, school, home, or other places where the individual frequently visit,
- ✦ Making threats to the individual's family, friends, co-workers, or even pets,
- ✦ Damaging the individual's home, car, or other property, or threatening to do so,
- ✦ Repeatedly sending the individual unwanted gifts,
- ✦ Posting information, or spreading rumors about, the individual,
- ✦ Obtaining information about the individual through the use of public records, online searches, going through the individual's garbage, or contacting the individual's family, neighbors, friends, or co-workers,
- ✦ Hiring a private investigator to follow, or discover information about, the individual.

Stalking is dangerous and can often cause severe and long-lasting emotional and psychological harm to victims. Stalking often escalates over time and can lead to domestic violence, sexual assault, and even homicide. Stalking can include frightening communications, direct or indirect threats, and harassing an individual through the internet.

**5.9 Retaliation** is any form of intimidation, reprisal, or harassment against an individual because they made a report of discrimination or harassment or because that individual has participated in an investigation of discrimination or harassment by or of a Triton College community member and includes, but is not limited to:

- ✦ Firing, refusing to hire, or refusing to promote the individual;
- ✦ Departing from any customary employment or academic practice regarding the individual;
- ✦ Transferring or assigning the individual to a lesser position in terms of wages, hours, job classification, job security, employment, or academic status;
- ✦ Informing another student, staff, or faculty member who does not have a need to know that the individual has made a complaint or participated in an investigation of a complaint of sexual harassment; or
- ✦ Impeding the individual's academic advancement in any College activity or program.

## 6. Student Adjudication Procedures

For every report of Prohibited Conduct under these General Grievance Procedures that will be considered for investigation, the Title IX or Deputy Title IX Coordinator will make an initial review. The initial review will consider the nature of the report and the safety of all parties and of the campus

community. A decision will be made about appropriate next steps. Each resolution process will provide a prompt, fair, and impartial investigation and resolution, organized through the Title IX Coordinator. A decision by the Vice President of Enrollment Management and Student Affairs to dismiss the alleged violation or to issue further action is final and non-appealable.

## 7. Assessment of a Complaint

- ✚ Upon notice of a complaint regarding Prohibited Conduct, the Title IX Coordinator or Deputy Title IX Coordinator will assess whether a formal Title IX Investigation will be conducted under these General Grievance Procedures; that is, whether the complaint(s), if true, rise to the level of Prohibited Conduct and, if so, whether a formal investigation is appropriate under the circumstances. When the Title IX Coordinator or Deputy Title IX Coordinator determines that there is no ongoing risk of harm to the community and that supportive measures, such as a No Contact Directive, have remedied the complaint, the Title IX Coordinator or Deputy Title IX Coordinator may forego a formal investigation.
- ✚ If no further action is necessary or if the supportive measures will remain in place as ongoing accommodations, the complainant will be provided a General Outcome Letter. To the extent appropriate under these General Grievance Procedures, if involved in the assessment, the respondent will be provided a General Outcome Letter. If the Title IX Coordinator or Deputy Title IX Coordinator determines there is no further action, then the decision is non-appealable at Triton Community College.
- ✚ This process may be coordinated with the Triton College Police Department, but is separate from any criminal investigation if applicable.
- ✚ The level of control the college has over the respondent will determine if an investigation is possible. If Triton College cannot take direct action against an individual, the college would not be able to investigate but would provide resources and possible supportive measures.

## 8. Investigation Process

1. **Assigning an Investigator:** When a determination is made to proceed with a Title IX investigation, the Title IX Investigator will investigate.
2. **Notice of Investigation:** At the outset of an investigation, the Title IX Investigator or designee will advise both parties of the allegations in writing.
3. **Opportunity to Participate:** Both the complainant and respondent will have an opportunity to respond to the Notice of Investigation in writing and in a meeting with the assigned investigator. Both parties have the right to request that the investigator meet with relevant witnesses and evaluate relevant evidence.
4. **Evidentiary Determination:** The investigator has broad discretion in determining whether an offered witness or documentary evidence would be relevant or helpful to a determination. For example, an investigator might decline to speak to a witness because there is not a sufficient basis that the person could have relevant information to the factual determination; the information to be solicited would be repetitive; or confidentiality concerns outweigh the importance of the information.
5. **Title IX Decision Maker Review:** In the event the investigator is not the Title IX Coordinator or Deputy Title IX Coordinator, the investigator will provide an Investigative

Report to the respective Title IX Coordinator for review before it is finalized and submitted to the decision maker(s).

6. **Resolution Process:** Depending on the Prohibited Conduct violation, the Administrative Resolution or Hearing Resolution process will determine the finding and any outcomes, if appropriate.
7. **Investigation Outcome:** Upon completion of the investigation and Resolution Process, the decision maker(s) or designee will issue each party a written General Outcome Letter including findings of fact, and if applicable, any actions the College will take to provide accommodations or safety measures for the College community.
8. **Outcome Appeal:** Either party may submit an appeal to review the outcomes, but not the findings, of an outcome of an investigation.

An individual may have a support person or advisor of choice (i.e. friend, family member, attorney, advocate) accompany them through the investigative and resolution process. A support person or advisor of choice may not speak for the student or employee.

The College strives to avoid any conflict of interest or bias on the part of any individual responsible for investigating and/or resolving alleged misconduct. Any party who wishes to express concerns about a conflict of interest or bias should notify the Title IX Coordinator or Deputy Title IX Coordinator in writing. In instances where a conflict of interest or perceived bias on the part of the Title IX Coordinator or Deputy Title IX Coordinator occurs, the notification should be made in writing to the Vice President of Business Services or Vice President of Enrollment Management and Student Affairs.

**9. Resolution Process** Each resolution process involving a complaint of the Harassment, Discrimination, and Sexual Misconduct Policy will provide a prompt, fair, and impartial investigation and resolution, organized through the Title IX Coordinator. Depending on the alleged Prohibited Conduct violation, the complaint will be resolved in one of two ways: Administrative Resolution or a Hearing.

The Vice President of Business Services, in consultation with the Title IX Coordinator, will oversee the Administrative Resolution process when College employees are involved. The Vice President of Enrollment Management and Student Affairs, in consultation with the Deputy Title IX Coordinator, will oversee the process when students are involved. When both a student and employee are involved, the Vice President of Enrollment Management and Student Affairs and the Vice President of Business Services will work together in consultation with the Title IX Coordinator to determine a finding and outcome.

**9.1 Administrative Resolution:** If the Title IX Coordinator or Deputy Title IX Coordinator determines the complaint alleges a policy violation of the following Prohibited Conduct (harassment, threats, bullying on the basis of sex, retaliation, sexual harassment, and violation of a No Contact order), then the Administrative Resolution process will be used.

**9.2 Violation of a No Contact Order:** When an individual violates the terms of an active No Contact Order, then the Administration Resolution process will be used

**9.3 Hearing Resolution Procedure:** If the Title IX Coordinator determines the complaint alleges a policy violation of the following Prohibited Conduct (dating violence, domestic violence, sexual misconduct, and stalking), then the Hearing Resolution process will be used.

Decisions of findings in the Hearing Resolution process will be reached by a panel of trained Triton College employees consisting of and selected from a group of faculty, staff, and administrators. When an employee is the respondent, a minimum of one of the three panelists will be a representative from Human Resources. When a student is the respondent, a representative from the Student Affairs Office, will serve as one of the three panelists.

In cases involving more than one allegation, the College does not require individuals to engage in more than one resolution process. If an allegation includes dating violence, domestic violence, sexual misconduct, or stalking in addition to any prohibited conduct in the Administrative Resolution process, the Hearing Resolution Panel will be used. Similarly, any time there are multiple allegations against an individual which includes dating violence, domestic violence, sexual misconduct, or stalking, the Title IX Hearing Resolution Panel will be used to address all of the allegations. Triton College reserves the right to adjudicate multiple allegations together or separately.

For example, if there is an allegation of stalking and a violation of the College's Guidelines for the Use of Electronic Mail policy, then both allegations would be addressed at the same time through the Hearing Resolution Panel process. This practice assures that no one is subject to multiple processes and allows the College to maintain the appropriate level of due process for Title IX allegations.

## **10. Administrative Resolution Procedures**

### **10.1 If the respondent is a student, the process will be:**

1. Following an investigation, the Investigator will provide the Investigative Report to the decision maker. It may be the case that the Title IX or Deputy Title IX Coordinator serves as the Investigator on a case.
2. To protect the privacy of all parties, all meetings will be closed to the public.
3. If the complainant or respondent do not attend, the meeting will occur in their absence.
4. The meeting may be audio recorded. All recordings are the property of the College. Others will not be able to make a recording of any type. Requests to review audio recordings may be made to the Title IX Coordinator or Deputy Title IX Coordinator.
5. Parties may call upon witnesses who were included in the report. If witnesses attend, they will only be present during a time dedicated to answering specific questions. It is the responsibility of the parties to coordinate the attendance of their witnesses. If parties plan to call witnesses, the list of witnesses will be provided to the decision maker three days in advance of the meeting.
6. At the conclusion of the hearing, all parties will be dismissed.
7. The decision maker will make the decision on findings and any outcomes if applicable.
8. If the respondent is found responsible for the prohibited conduct of harassment, threats and bullying on the basis of sex, retaliation, sexual harassment, and/or violation of a No Contact Order then the Dean of Student Affairs will provide appropriate outcomes: Written Warning, Conduct Probation, Restitution/Reimbursement, Class Removal, No

Contact Order, Restriction, Revocation of Admission and/or Degree, Suspension, Expulsion or any other appropriate discretionary outcomes.

9. The decision maker or designee will email the General Outcome Letter to the complainant and respondent as simultaneously as possible using their Triton College email address

**10.2 If the respondent is an employee, the process will be:**

1. The Title IX Coordinator will provide the Investigative Report to the Vice President of Business Services
2. The Vice President of Business Services may contact witnesses that were outlined in the Investigative Report if more information is needed.
3. The Vice President of Business Services will make the decision on findings and any outcomes if applicable.
4. If the respondent is found responsible for the prohibited conduct of harassment, threats and bullying on the basis of sex, retaliation, sexual harassment, and/or violation of a No Contact Order, then the Associate Vice President of Human Resources will provide appropriate outcomes: Written Warning, Conduct Probation, Restitution/Reimbursement, Demotion, Job Reassignment, No Contact Order, Restriction, Termination, or any other appropriate discretionary outcomes.
5. The Title IX Coordinator and HR designee or Supervisor will meet with the complainant to provide the General Outcome Letter.
6. The General Outcome Letter will be emailed to the complainant and respondent using their Triton College email address.
7. The Title IX Coordinator and HR designee will meet with the respondent to provide the Outcome Letter.

**10.3 If the respondent is both an employee and student of alleged claim while on the job, the process will be:**

1. Following an investigation, the Title IX Investigator will provide the Investigative Report to the Dean of Students and the Vice President of Business Services.
2. A meeting will be scheduled with the Dean of Students and the Vice President of Business Services as decision makers with the complainant, respondent, and their support persons or advisor of choice if they choose. The Title IX Investigator will be present to answer any questions about the Investigative Report.
3. To protect the privacy of all parties, all meetings will be closed to the public.
4. The respondent is required to attend all scheduled meetings.
5. The meeting will be audio recorded. The recordings are the property of the college. Others will not be able to make a recording of any type. Requests to review audio recordings may be made to the Title IX Coordinator.

6. Parties may call upon witnesses who were included in the report. If witnesses attend, they would only be present during a time dedicated to answering specific questions. It is the responsibility of the parties to coordinate the attendance of their witnesses. If parties plan to call witnesses, the list of witnesses needs to be provided to the decision maker(s) three days in advance of the meeting.

7. At the conclusion of the hearing, all parties will be dismissed.

8. The decision makers will make the decision on findings and any outcomes if applicable.

9. If the respondent is found responsible for the prohibited conduct of harassment, threats and bullying on the basis of sex, retaliation, sexual harassment, and/or violation of a No Contact Order, then the Dean of Students and the Vice President of Business Services will provide appropriate outcomes: Written Warning, Conduct Probation, Restitution/Reimbursement, Class Removal, No Contact Order, Restriction, Revocation of Admission and/or Degree, Suspension, Expulsion or any other appropriate discretionary outcomes.

10. The Title IX Coordinator and HR designee will meet with the complainant to provide the General Outcome Letter.

11. The Title IX Coordinator will email the General Outcome Letter to the complainant and respondent as simultaneously as possible using their preferred email address.

## **11. Hearing Resolution Procedures**

1. The Title IX Coordinator or Deputy Title IX Coordinator will provide the Investigative Report to the Hearing Resolution Panel.
2. A hearing will be scheduled in separate locations on campus with the Hearing Panel, Complainant, Respondent and their support persons or advisor of choice, if they choose. The Title IX Investigator will be present to answer any questions about the Investigative Report.
3. To protect the privacy of all parties, all hearings will be closed to the public.
4. If the complainant or respondent do not attend, the hearing will occur in their absence. Employees that are respondents need to attend all scheduled meetings.

The hearing will be audio recorded. The recordings are the property of the College. Others will not be able to make a recording of any type. Requests to review audio recordings may be made to the Title IX Coordinator.

5. Parties may call upon witnesses in advance who were included in the report. If witnesses attend, they will only be present during a time dedicated to answering specific questions. It is the responsibility of the parties to coordinate the attendance of their witnesses. If parties plan to call witnesses, the list of witnesses needs to be provided to the Title IX Coordinator three days in advance of the meeting.

At the conclusion of the hearing, all parties will be dismissed except for the Title IX Hearing Resolution Panel to deliberate and reach a decision.

6. If the respondent is found responsible for the prohibited conduct of Dating Violence, Domestic Violence, Sexual Misconduct, or Stalking, the IX Hearing Panel will provide the appropriate outcome: Written Warning, Conduct Probation, Restitution/Reimbursement, Class Removal, Demotion, Job Reassignment, No Contact Order, Restriction, Revocation of Admission and/or Degree, Suspension, Expulsion, Termination, or any other appropriate discretionary outcomes.
7. If the respondent is a student, the decision maker(s) will email the General Outcome Letter to the parties as simultaneously as possible using their Triton College email address.
8. If either party is an employee, the Title IX Coordinator and HR Designee will meet with them to provide a General Outcome Letter as simultaneously as possible and a copy of the letter will be emailed to their preferred email address.
9. If the respondent is an employee and student, the General Outcome Letter will include findings and outcomes for both roles as an employee and student. Expectations and standards are different for employees and students; therefore, an individual can be found responsible in their role as an employee but not as a student. The order of presentation at the hearing will be as follows:
  - a) An opening statement that includes the alleged violation of prohibited conduct will be provided by the Title IX Coordinator.
  - b) The complainant may present an opening statement or choose for their statement to be read by their advisor of choice
  - c) The Respondent may present an opening statement or choose for their statement to be read by their advisor of choice.
  - d) The Title IX Investigator will present the Investigative Report and answer any related questions from the Hearing Resolution Panel.
  - e) The IX Hearing Resolution Panel may ask questions of either party.
  - f) All parties shall have reasonable opportunity to question witnesses through a structured and controlled process and to present information and argument deemed relevant.
  - g) All parties will direct all questions for witnesses and of each other through the hearing panel chair.

h) The complainant may make a closing statement or choose for their statement to be read by their advisor of choice.

i) The respondent may make a closing statement or choose for their statement to be read by their advisor of choice.

j) All parties are dismissed for the hearing panel deliberation. The Hearing Resolution Panel will make a decision within five business days after the hearing, although circumstances may require additional time. Arguments about the legality of any provision under which an allegation has been brought or the legality of the procedures under which the hearing is proceeding shall be directed to the Triton College Legal Counsel for consideration.

## 12. Remedies

Any person found responsible for violating the Harassment, Discrimination, and Sexual Misconduct Guidelines may be assigned any of the following outcomes:

- 12.1 Written Warning:** An official written notice of violation of college policies and that more severe action will result should the person be involved in other violations.
- 12.2 Conduct Probation:** A specified period of time during which the person is placed on formal notice that they are not in good standing with the College and that further violations of college regulations will subject them to suspension, expulsion or termination from the College.
- 12.3 Restitution:** Reimbursement for damages to or misappropriation of property. Reimbursement may take the form of appropriate service to repair or otherwise compensate for damages.
- 12.4 Discretionary Outcomes:** Work assignments, essays, and service to the College, program participation, or other related discretionary assignments, including a letter of apology, presentation of a workshop, performance improvement plan, training, preparation of a research paper or project, community service, evaluation of any referral assessment, and/or counseling.
- 12.5 Class Removal:** A student may be removed from a course or moved to another section of a course.
- 12.6 Demotion:** An employee may be demoted to a position previously held or position in a lower grade. Demotions may be within the same department of the College or to another position in another department.
- 12.7 Job Reassignment:** An employee may be moved temporarily or permanently to a different position or to a different location.

- 12.8 No Contact Order:** An absolute prohibition from contact with specified person or persons in any form whatsoever, including contact in person, by phone, electronically, and/or through another person. A No Contact Order may be implemented as supportive measures for Title IX issues. Supportive measures can be put in place without a formal complaint, conduct process, or a finding of responsibility. If there were an allegation of violating a No Contact Order, a new investigation would occur.
- 12.9 Restriction:** A limitation on a student's and employee's privileges for a period of time and may include the denial of the use of facilities or access to parts of campus, denial of the right to represent the College, and/or denial of participation in extracurricular activities not directly associated with academics (e.g., intramural sports, organizations/clubs/associations, or leadership positions on campus, or other organizations). An individual must apply to reinstate the privilege by submitting documentation of their significant proactive efforts to become good citizens of the community and engage in responsible, productive behavior.
- 12.10 Revocation of Admission and/or Degree:** Admission to Triton College, a College program, or a degree awarded from the College may be revoked for fraud, misrepresentation or other violation of College standards in obtaining the admission or degree, or for other serious violations committed while a student is at Triton College.
- 12.11 Suspension:** Exclusion from all classes and other privileges or activities for a specific period of time as set forth in the notice of suspension. If a transcript is requested during the period of suspension, a letter will be sent with the transcript to the requesting party/institution stating the student is under suspension for conduct reasons. Only unofficial transcripts will be released to the student directly. Any refund of tuition or fees will be subject to the college's normal withdrawal policy.
- 12.12 Expulsion:** Permanent termination of student status without possibility of readmission to the College. A standard of clear and convincing evidence must be the burden to issue an outcome of expulsion. Notation on the transcript is not made; however, a permanent record of the action is maintained in the student's record in the Registrar's Office. If a transcript is requested during the expulsion period, a letter will be sent with the transcript to the requesting party/institution stating the student has been expelled for conduct reasons. Only unofficial transcripts will be released to the student directly. Expulsion becomes a permanent part of a student's conduct record. Any refund of tuition or fees will be subject to the College's normal withdrawal policy. The student will no longer be able to register for courses in the future.
- 12.13 Termination:** Removal of employment for a full or part time employee including work-study students.

All members of the College community are expected to comply with conduct outcomes within the timeframe specified. Failure to follow through on outcomes by the date specified, whether

by refusal, neglect, or any other reason, may result in additional outcomes pursuant to the Code of Conduct for students and Union labor policy manual for employees.

For students, a Dean's hold, which is a "hold" on enrollment privileges, can be applied. This hold can prevent adding or dropping classes or enrollment for subsequent terms. Cancellation of enrollment occurs when a previous enrollment hold has been cleared with the condition that the enrollment will be cancelled for failure to meet the conditions of the clearance. If cancelled, the refund of tuition or fees will be subject to the College's normal withdrawal policy. A graduation hold is a hold on a student's participation in graduation exercises and diploma for failure to respond to a request to meet with a Conduct Officer, or for noncompliance with conduct outcomes. Vice President of Enrollment Management and Student Affairs, or designee, may recommend a graduation hold.

### **Implementation of Outcomes**

Conduct actions or grievance decisions shall be implemented immediately until an appeal either remands or overturns the sanction. The exceptions to delaying outcomes until the processes complete include:

- a) When interim suspension has been invoked by the Deputy Title IX Coordinator for students;
- b) When administrative leave has been invoked by the Vice President of Business Services or their designee for employees.

### **13. Outcome Appeal Process**

The Outcome Appeal Process will review a written appeal of either the Administrative or Hearing Resolution outcomes. The appeal is a review of outcomes, but not of the findings; additionally, it is a review of the original hearing, not a new hearing. It is the responsibility of the person who initiated the appeal to show that one or more of the listed grounds for appeal has merit. A student or employee will not appear before the college in the Outcome Appeal Process. The Outcome Appeal Process will consist of a formal letter of appeal to the Vice President of Enrollment Management and Student Affairs for students and the Vice President of Business Services for employees, or their designees in their absence. Appeals must be submitted to the Title IX Coordinator within five (5) business days of the General Outcome Letter. The opposing party will receive a copy of the appeal and have the right to respond.

Failure to file an appeal within the prescribed time constitutes a waiver of any right to an appeal. The appeal must cite at least one of the following criteria as the reason for an appeal and provide supporting argument(s) as to why an appeal should be granted on these grounds. Appeals criteria include the following:

1. The resolution was not conducted in conformity with prescribed procedures, and substantial prejudice to the Complainant or the Respondent resulted;
2. New information that could substantially affect the finding and has been discovered since

the finding. The information must not have been available at the time of the resolution process. Failure to present information that was available is not grounds for an appeal under this provision;

3. The outcome is not appropriate for the violation. This provision is intended to be utilized when a determined outcome is inherently inconsistent with College procedures. Simple dissatisfaction with an outcome is not grounds for overturning an outcome under this provision.

Prior to the Outcome Appeal Process review, if there is an opposing party or College investigator involved in the case, they will be given seven (7) business days to provide a written response to the appeal. The respective Vice President will review the record of the original resolution process, including documents, the appeal and written response/s to appeal, if applicable, and issue a finding as to the merits of the criteria cited as the reason for appeal.

- a) If the respective Vice President finds there is no merit to any of the grounds cited in the appeal, they will issue a finding as such and that decision will be final.
- b) If the respective Vice President finds the previous hearing was not conducted as prescribed and substantial prejudice resulted, the matter may be remanded to a new hearing.

#### **14. Time frame of an Investigation**

Triton College will respond to reports of sexual misconduct allegations under these General Grievance Procedures within twenty-four (24) hours of initial report filed. Requests for a review of a complaint that occurred more than 180 calendar days must submit a request to the Title IX Coordinator in writing at [Joeklinger@triton.edu](mailto:Joeklinger@triton.edu).

Students have the right to engage in a Hearing Resolution process that is prompt and equitable. An Investigation should normally be completed within sixty (60) business days after the College has notice of an allegation of Prohibited Conduct. The Title IX Coordinator may extend this time frame for good cause, including College breaks. After the investigation is complete, the Resolution Process should normally be completed within 30 business days.

#### **15. Rights and Responsibilities of the Parties and Witnesses**

##### **15.1 Rights of the Parties and Witnesses**

1. An investigation and appropriate resolution of all credible allegations made in good faith;
2. Treated with respect, dignity, and sensitivity throughout the process;
3. Presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
4. Informed by Triton College officials of options to notify proper law enforcement authorities and the option to be assisted in notifying such authorities if the complainant so chooses. This also includes the right not to be pressured to report;

5. Not be discouraged by officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
6. Be notified of available counseling and other resources, both on campus and in the community;
7. Ability to submit the names of relevant witnesses;
8. To not have irrelevant prior sexual history admitted as evidence. The College provides rape shield protections for complainants deeming questions and evidence about a complainant's prior sexual behavior irrelevant unless offered to prove that someone other than the respondent committed the alleged misconduct or to prove consent;
9. Regular updates on the status of the investigation and/or resolution;
10. Request that any Triton College representative involved in the process be removed on the basis of demonstrated bias and/or conflict of interest;
11. Have an advisor of choice, to attend and participate, during all phases of the investigation and resolution meetings;
12. Participate in the investigation, including providing relevant information to the investigator.
13. Be promptly informed of the outcome of the resolution process, information about the appeal process, any change to the result, and when the results become final in writing, without undue delay between the notifications to the parties;
14. Be protected from retaliation and intimidation where one has reported a Title IX concern or participates as a witness in the process;
15. Receive a General Outcome Letter.

#### 15.2 Responsibilities of the Parties and Witnesses

1. To be truthful, to cooperate with the process, and to follow the directions of the College staff administering this process;
2. To not retaliate against or intimidate any individual who has reported a Title IX concern or who has participated as a witness in the process; and
3. To keep confidential documents and materials received from the College during this process.

#### 16. Definitions Applicable to the General Grievance Procedures

**16.1 Affirmative Action/Equal Opportunity:** An active effort to improve the employment or educational opportunities of members of minority groups and women.

**16.2 Americans with Disabilities Act:** The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. The ADA gives civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services, and telecommunications.

**16.3 Amnesty:** Immunity for those students, who in good faith, reports an alleged violation of the college's comprehensive policy to a responsible employee, as defined by federal law, so that the reporting student will not receive a disciplinary sanction by the institution for a student conduct violation, such as underage drinking or possession or use of a controlled substance, that is revealed in the course of such a report, unless the institution determines that the violation was egregious, including without limitation an action that places the health or safety of any other person at risk.

**16.4 Appeal Process:** A process whereby the complainant and respondent have the right to file an appeal if there is disagreement with the results and conclusion of the resolution of the issue.

**16.5 Awareness Programming:** Institutional action designed to communicate the prevalence of sexual violence, including campaign, symposia, without limitation training, poster and flyer electronic communications, films, guest speakers, conferences, seminars, or panel discussions.

**16.6 Business Day:** Monday through Thursday, 8:00 a.m. to 5:00 p.m. and Friday 8:00 a.m.-4:00 p.m. except federal or state holidays and any other days Triton Community College deems necessary to close.

**16.7 Bystander Intervention:** Includes without limitations the act of challenging the social norms that support, condone, or permit sexual violence.

**16.8 College or Institution:** Any Illinois community college.

**16.9 Campus Community:** Includes any person who is a student, faculty member, College official or any other person employed by the College.

**16.10 College Official:** Includes any person employed by the College, performing assigned administrative or professional responsibilities, including all Triton College affiliated boards.

**16.11 College Premises:** Any buildings or grounds owned, leased, or controlled by the College.

**16.12 College-sponsored activity:** Any activity on College premises or at an off-campus location that is directly initiated or supervised by the College or a College recognized group or organization. This

includes student organizations, study abroad programs, and events. In addition, College-operated or leased transit is included in this activity even if the behavior occurs off College premises.

**16.13 Complainant:** Any student, employee, or vendor that is making an allegation against another person of Prohibited Conduct or is being negatively impacted by someone alleged to have engaged in Prohibited Conduct.

**16.14 Comprehensive policy:** A policy created and implemented by a higher education institution to address student allegations of sexual violence, domestic violence, dating violence, and stalking.

**16.15 Confidential Advisor:** A Confidential Advisor is a designated Triton College employee trained to provide ongoing support to student survivors of sexual violence. Confidential advisor means a person who is employed or contracted by a higher education institution to provide emergency and ongoing support to survivors of sexual violence with the training, duties, and responsibilities described in Section 20 of the Preventing Sexual Violence in Higher Education Act.

**16.16 Consent:** is an affirmative decision by all participants to engage in mutually acceptable sexual activity; Informed consent is freely and actively given, using mutually understandable words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Initiators of sexual activity are responsible for obtaining consent. Silence or passivity is not consent. The use of intimidation, coercion, threats, force, or violence negates any consent obtained. Consent is not effective if obtained from an individual who is incapable of giving consent due to lack of consciousness, age, mental disability or incapacitation due to ingestion of drugs or alcohol.

**16.17 Dating Violence:** Violence and abuse committed by a person to exert power and control over another person with whom they have been in a social relationship of a romantic or intimate nature. Dating violence often involves a pattern of escalating violence and abuse over a period of time. Dating violence covers a variety of actions and can include physical abuse, psychological and emotional abuse, and sexual abuse. It can also include “digital abuse,” the use of technology, such as smartphones, the internet, or social media to intimidate, harass, threaten, or isolate a person.

**16.18 Dean's Hold:** A Dean's hold restricts enrollment and transcript release made by the Dean of Students.

**16.19 Domestic Violence:** is a pattern of abusive behavior in a relationship that is used by a family or household member to maintain power and control over another family or household member. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behavior that intimidates, manipulates, humiliates, isolates, frightens, terrorizes, coerces, threatens, hurts, injures, or wounds someone.

**16.20 Employee:** A person employed at Triton College for wages or salary, as defined by Illinois law.

**16.21 Employee Handbook:** All policies defined in the Triton Employee or Faculty Handbook or Union and Non-Union Labor Policy Manual.

**16.22 Evidentiary Standard:** In order for a student or employee to be found responsible, the information must support a determination that is more likely than not that a violation of the Harassment, Discrimination, and Sexual Misconduct Guidelines occurred. Hearsay evidence may be considered but will be weighed accordingly.

**16.23 Faculty Member:** Any full time or part time individual hired by the College to conduct classroom or teaching activities or who is otherwise considered by the College to be a member of the faculty.

**16.24 Family Educational Rights and Privacy Act (FERPA):** A federal law originally passed in 1974 that defines student educational records and regulates who may access those records and under what circumstances. The purpose of FERPA is to protect the privacy of student education records.

**16.25 General Outcome Letter:** Letter provided to both parties at the end of the investigation. In general, it will include finding (s), and if applicable, any action the college will take.

**16.26 Hearing Procedures:** The hearing is not a legal proceeding. Formal rules of process, procedure, and evidence do not apply. Necessary levels of due process and fairness will be provided to all participants during these proceedings.

**16.27 Investigative Report:** The report of investigation prepared by an investigator after a formal complaint is filed, processed, and investigated.

**16.28 No Contact Order:** A prohibition of direct or indirect physical, verbal, or written contact. A No Contact Order is provided by the College, not by law enforcement.

**16.29 Notice:** When a College employee has information that would lead a reasonable employee to know or should have known about a concern regarding Prohibited Conduct.

**16.30 Notice of Investigation:** A written statement provided to the Respondent advising that an investigation will take place under these guidelines. It will include a general statement of the complaint.

**16.31 Policy:** Specifically prohibited conduct of Dating Violence, Domestic Violence, Sexual Misconduct, or Stalking.

**16.32 Prohibited Conduct:** Conduct defined in these General Grievance Procedures. Prohibited conduct can occur on or off campus.

**16.33 Remedies:** A disciplinary action imposed for students or employees who are found responsible for violating the Harassment, Discrimination, and Sexual Misconduct Guidelines. Outcomes are designed to include educational measures that hold students and employees accountable for their behavior, providing the opportunity for behavior change. Outcomes can range from a written warning to expulsion and termination.

**16.34 Reporter:** An individual who reports Prohibited Conduct; the College may serve as a reporter. Also referred to as a mandatory reporter.

**16.35 Respondent:** Any student, employee, or vendor that is alleged to have engaged in Prohibited Conduct.

**16.36 Retaliation:** Any form of intimidation, reprisal or harassment against an individual because they made a report of discrimination or harassment or because that individual has participated in an investigation of discrimination or harassment by or of a Triton College community member.

**16.37 Sexual Assault:** is any type of sexual contact or behavior that occurs without consent of the recipient. Falling under the definition of sexual assault is sexual activity such as forced sexual intercourse, sodomy, molestation, incest, fondling, and attempted rape. It includes sexual acts against people who are unable to consent either due to age or lack of capacity.

**16.38 Sexual Harassment:** a form of prohibited sex discrimination and includes any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access or creates a hostile or abusive educational environment.

**16.39 Stalking:** is a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear. Stalking is dangerous and can often cause severe and long-lasting emotional and psychological harm to victims. Stalking often escalates over time and can lead to domestic violence, sexual assault, and even homicide. Stalking can include frightening communications, direct or indirect threats, and harassing a victim through the internet.

**16.40 Student:** For the purpose of the Harassment, Discrimination, and Sexual Misconduct Guidelines the definition of student is a person who: Registered for classes and actively engaged in coursework or otherwise entered into any other contractual relationship with the College.

The active or inactive status of the student will determine the procedures and outcome for a Student Code of Conduct complaint. A student who withdraws from a course or from the College, or completes their courses after the date of an alleged violation is still considered a student.

**16.41 Student Status:** An active student is any person enrolled in or taking courses at or through the College, either full-time or part-time, credit or noncredit, including guest student, dual enrollment, online courses, study abroad, and auditing courses. Active student status lasts until an individual graduates, is dismissed, or is not in attendance for three (3) consecutive semesters (i.e. fall-spring-fall semesters.)

An inactive student is any person possessing a Triton College ID number but not meeting the entire criteria of an active student. Allegations of sexual misconduct may be filed at any time, whether or not the student is currently enrolled or registered.

**16.42 Student Code of Conduct:** All policies delineated in the Triton College 411 Student Handbook.

**16.43 Support Person or Advisor of Choice:** A person who has agreed to provide support to a complainant or respondent during the College investigative and resolution process. The support person or advisor of choice is an individual chosen by the student or employee such as a parent, friend, or an attorney. The College will provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney. Any compensation for a support person or advisor of choice is the responsibility of the student or employee.

**16.44 Supportive Measures:** Individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment. Supportive measures must be offered with or without a formal complaint.

**16.45 Survivor:** A student who has experienced sexual violence, domestic violence, dating violence, or stalking while enrolled at a higher education institution.

**16.46 Title IX:** A comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity.

**16.47 Title IX Coordinator:** The designated employee to coordinate efforts to comply with and carry out the College's responsibilities under Title IX of the Education Amendments of 1972, which prohibits sex discrimination in education programs and activities.

**16.48 Title IX Hearing Panel:** A trained group of individuals who are responsible for determining if a respondent is more likely than not to have violated the Harassment, Discrimination, and Sexual Misconduct Guidelines.

## **Title IX Sexual Harassment Grievance Procedures**

**17.1** These Title IX Sexual Harassment Grievance Procedures will be used to process any report or complaint of "Title IX Sexual Harassment," as defined in these Title IX Sexual Harassment Grievance Procedures. Any person may report Title IX Sexual Harassment under these procedures, whether or not the complainant is the person alleged to be the victim of the conduct. Reports of Title IX Sexual Harassment may be made in person, by mail, by telephone, or by electronic mail at any time (including during non-business hours) directed to the Title IX Coordinator using the contact information contained in these Procedures and Board policy. If an Official with Authority, as defined in these Title IX Sexual Harassment Grievance Procedures, receives a report or otherwise has knowledge of a report or incident of Title IX Sexual Harassment, the Official with Authority must promptly report such information to the Title IX Coordinator.

Processing a report or complaint under these Title IX Sexual Harassment Grievance Procedures does not preclude processing some or all allegations of a report or complaint under other policies and

procedures, including the General Grievance Procedures above, to the extent allowed by Title IX and other laws.

These Grievance Procedures comply with all requirements of Title IX and its implementing regulations and provide required notice of the procedure used to respond to complaints of Title IX Sexual Harassment for necessary stakeholders.

If the regulations implementing Title IX at 85 Fed. Reg. 30026, 30026-30579, are enjoined or invalidated by a Federal Court with jurisdiction over the College or reversed or replaced by any agency with sufficient authority, these Title IX Sexual Harassment Grievance Procedures will immediately cease to apply to reports and complaints of sexual harassment and sexual misconduct, including Title IX Sexual Harassment, unless and until any such injunction, invalidation, reversal, or replacement is overturned or reversed.

Schools must respond promptly to Title IX sexual harassment in a manner that is not deliberately indifferent, which means a response that is not clearly unreasonable in light of the known circumstances. Notice to a Title IX Coordinator charges a school with actual knowledge and triggers the school's response obligations. Schools must respond when sexual harassment occurs in a school's educational program or activity against a person in the United States. Education program or activity includes locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurred and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution. Title IX applies to all of a school's education programs or activities whether such programs or activities occur on-campus or off-campus.

## **17.2 Title IX Sexual Harassment Definitions**

The following terms have the following definitions as used in these Title IX Sexual Harassment Grievance Procedures:

**"Actual Knowledge"**—Notice of Title IX Sexual Harassment or allegations of Title IX Sexual Harassment to the College's Title IX Coordinator or to any Official with Authority, as defined herein. Assumption of knowledge based solely on the College's status as an employer or other presumption under law does not constitute Actual Knowledge. This standard is not met when the only official of the College with Actual Knowledge is the Title IX Respondent. **"Notice"** as used here includes, but is not limited to, a report or complaint of Title IX Sexual Harassment to the Title IX Coordinator or any Official With Authority in person, by mail, by telephone, or by email using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator or Triton Official with Authority receiving the person's verbal or written report.

**"Business Days"**—Days on which the College main office is open.

**"Consent"**— Informed, freely and actively given, mutually understandable words or actions that indicate a willingness to participate in a mutually agreed upon sexual activity. A person can withdraw consent at

any time. There is no consent when there is force, threats, intimidation, or duress. A person's lack of verbal or physical resistance or manner of dress do not constitute consent. Consent to past sexual activity with another person does not constitute consent to future sexual activity with that person. Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. A person cannot consent to sexual activity if the person is unable to understand the nature, fact, or extent of the activity or give knowing consent due to circumstances including without limitation the following:

1. the person is incapacitated due to the use or influence of alcohol or other drugs;
2. the person is asleep or unconscious;
3. the person is under the legal age to provide consent; or
4. the person has a disability that prevents such person from having the ability or capacity to give consent.

“Education Program or Activity”—Locations, events, or circumstances in the United States over which the College exercises substantial control over both the Title IX Respondent and the context in which Title IX Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the College. Depending on the facts, this phrase may extend to off-campus Title IX Sexual Harassment incidents.

“Officials with Authority”—Includes any official designated by the College to have authority to institute corrective measures on behalf of the institution, specifically: Dean of Students/Deputy Title IX Coordinator, AVP for Human Resources/Title IX Coordinator.

“Title IX Appellate Decisionmaker”—One or more individuals designated to conduct an appeal required by Title IX and these Title IX Sexual Harassment Grievance Procedures. The Title IX Appellate Decisionmaker cannot be the Title IX Coordinator, the Title IX Investigator, or the Title IX Decisionmaker assigned to the same Formal Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual Title IX Complainant or Respondent, and must be trained to properly implement these Title IX Sexual Harassment Grievance Procedures and to serve impartially.

“Title IX Complainant”—An individual who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment.

“Title IX Coordinator”—An individual designated and authorized by the College to coordinate its efforts to comply with and carry out its responsibilities under the regulations implementing Title IX. The Title IX Coordinator's contact information can be found in this Student Handbook.

“Title IX Formal Complaint”—A document filed by a Title IX Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Title IX Respondent and requesting that the College investigate the allegation. At the time of filing a Formal Title IX Complaint, a Title IX Complainant must be participating in or attempting to participate in the College's Education Program or Activity within which the Formal Title IX Complaint is filed. A Formal Title IX Complaint may be filed with the Title IX Coordinator in person, by mail, or by email, by using the contact information required to be listed for

the Title IX Coordinator in the College’s Nondiscrimination Policy and included in this Student Handbook. As used here, the phrase “document filed by a Title IX Complainant” means a document or electronic submission (such as by email or paper or electronic form provided for this purpose by the College) that contains the Title IX Complainant’s physical or digital signature, or otherwise indicates that the Title IX Complainant is the person filing the Formal Title IX Complaint. Where the Title IX Coordinator signs a Formal Title IX Complaint, the Title IX Coordinator is not a complainant or otherwise a party under these Title IX Sexual Harassment Grievance Procedures.

“Title IX Informal Resolution Facilitator”—An individual designated by the Title IX Coordinator to seek an informal resolution of a Formal Title IX Complaint in accordance with these Title IX Sexual Harassment Grievance Procedures. The Title IX Informal Resolution Facilitator must be free from conflicts of interest or bias against Complainants and Respondents generally and against an individual Title IX Complainant or Respondent and must be trained to properly implement this Title IX Sexual Harassment Process and to serve impartially.

“Title IX Investigator”—An individual designated to investigate a Formal Title IX Complaint according to these Title IX Sexual Harassment Grievance Procedures. The Title IX Investigator cannot be the Title IX Decisionmaker or the Title IX Appellate Decision maker assigned to the same Formal Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual Title IX Complainant or Respondent, and must be trained to properly implement these Title IX Sexual Harassment Grievance Procedures and to serve impartially.

“Title IX Respondent”—An individual who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Harassment.

“Title IX Sexual Harassment”—Conduct on the basis of sex that satisfies one or more of the following:

- A Triton employee conditions the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct; or
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College’s education program or activity; or
- *Sexual assault* as defined in 20 U.S.C. §1092(f)(6)(A)(v), *dating violence* as defined in 34 U.S.C. §12291(a)(10), *domestic violence* as defined in 34 U.S.C. §12291(a)(8), or *stalking* as defined in 34 U.S.C. §12291(a)(30).
  - *Sexual assault* means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system (UCR Program) of the Federal Bureau of Investigation (FBI). 20 U.S.C. §1092(f)(6)(A)(v). For more information regarding the FBI UCR Program, see [www.fbi.gov/services/cjis/ucr/](http://www.fbi.gov/services/cjis/ucr/).
  - *Dating violence* means violence committed by a person: (1) who is or has been in a social relationship of a romantic or intimate nature with the victim, and (2) where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. 34 U.S.C. §12291(a)(10).

- *Domestic violence* includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. 34 C.F.R. §12291(a)(8).
- *Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others, or (2) suffer substantial emotional distress. 34 C.F.R. §12291(a)(30).

“Title IX Supportive Measures”—Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to a Title IX Complainant or Respondent before or after the filing of a Formal Title IX Complaint or where no Formal Title IX Complaint has been filed. Such measures are designed to restore or preserve equal access to the College’s Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College’s educational environment and deter sexual harassment. Title IX Supportive Measures may include but are not limited to counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Supportive measures may be requested verbally or in writing by the complainant or the respondent, or the College can initiate the supportive measures in the absence of a request at any time during the process.

“Title IX Team”—The group of individuals responsible for addressing reports and complaints of Title IX Sexual Harassment, including the Title IX Coordinator or designee, Title IX Investigators, Title IX Decisionmakers, Title IX Appellate Decisionmakers, and Title IX Informal Resolution Facilitators.

“Title IX Decisionmaker”—An individual designated by the Title IX Coordinator or designee to reach a determination regarding responsibility in a Formal Title IX Complaint by applying the preponderance of the evidence standard of proof. The Title IX Decisionmaker cannot be the Title IX Coordinator, the Title IX Investigator, or Title IX Appellate Decision maker assigned to the same Formal Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual Title IX Complainant or Respondent, and must be trained to properly implement these Title IX Sexual Harassment Grievance Procedures and to serve impartially.

### **17.3 Title IX Sexual Harassment Investigation Process**

If the College has Actual Knowledge of Title IX Sexual Harassment, the institution shall respond in a manner that is not clearly unreasonable in light of the known circumstances by using these Title IX Sexual Harassment Grievance Procedures. No person designated or serving as a Title IX Coordinator or designee, Title IX Investigator, Title IX Decisionmaker, Title IX Appellate Decisionmaker or Title IX Informal Resolution Facilitator will have a conflict of interest or bias for or against Title IX complainants

or respondents generally or against an individual Title IX Complainant or Title IX Respondent. The institution's response will include, at a minimum, the following:

***Whether or not a formal complaint alleging Title IX Sexual Harassment is filed***, at a minimum, the Title IX Coordinator or designee will comply with the following:

- **Initial Meeting with the Complainant:** The Title IX Coordinator or designee must promptly contact the Title IX Complainant to:
  - Discuss the availability of Supportive Measures;
  - Inquire about and consider the Title IX Complainant's wishes with respect to Supportive Measures;
  - Inform the Title IX Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint; and
  - Explain to the Title IX Complainant the process for filing a Formal Complaint as set forth in these Title IX Sexual Harassment Grievance Procedures.
- **Supportive Measures:** the College will maintain as confidential any supportive measures provided to the Title IX Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the Supportive Measures. The College may not impose any disciplinary sanctions or other actions that are not Supportive Measures against a Title IX Respondent unless a Formal Complaint has been filed and a finding of responsibility has been issued against the Title IX Respondent under these Title IX Sexual Harassment Grievance Procedures.
  - **Emergency Removals/Leaves of Absence:** the College may, however, remove a student-Title IX Respondent from its education program or activity on an emergency basis, provided that the College makes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the Title IX Respondent with notice and an opportunity to challenge the decision immediately following the removal. The College also may place a non-student employee Title IX Respondent on paid administrative leave during the pendency of these Title IX Sexual Harassment Grievance Procedures. Such emergency removals/leaves of absence must comply with any other relevant laws, policies, administrative procedures, and agreements governing removals of students and/or employees from the institution's program or activity.

***If a Formal Complaint alleging Title IX Sexual Harassment is filed or initiated***, the Title IX Coordinator or designee will, at a minimum:

- **Notice of Allegations:** Provide written notice to any known Title IX Complainants and Title IX Respondents including:

- A copy or link to these Title IX Sexual Harassment Grievance Procedures
- Notice of the allegations of Title IX Sexual Harassment in the formal complaint, including the identities of all known parties involved in the incident(s), the conduct allegedly constituting Title IX Sexual Harassment, the date and location of the alleged incident, and any other details necessary to prepare a response; such notice must be provided with sufficient time for the parties to prepare a response before any interview, which in no case shall be less than 24 hours
- A statement that the Title IX Respondent is presumed not responsible for the alleged conduct
- A statement that a determination regarding responsibility is made at the conclusion of the Grievance Procedures
- Notice to the parties that they may have an advisor of choice who may be, but is not required to be, an attorney
- Notice to the parties that they may inspect and review evidence obtained during the investigation
- Notice of any provision of the College's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the Grievance Procedures

If at any time during the course of the investigation additional allegations of Title IX Sexual Harassment arise that will be investigated and that were not included in the written notice, the Title IX Coordinator or designee will, within 5 Business Days of the decision to add the allegations to the investigation, provide notice of the additional allegations as described above to the parties whose identities are then known.

- **Mandatory Dismissals:** Within 5 Business Days of receiving a formal complaint filed by a Complainant, dismiss under these Title IX Sexual Harassment Grievance Procedures any allegation in the Formal Complaint that would not constitute Title IX Sexual Harassment, even if true; that did not occur in the College's education program or activity; or that did not occur against a person in the United States. Nothing precludes action on any dismissed allegations under another policy, procedure, or rule of the College. Upon such dismissal, the Title IX Coordinator or designee will send written notice of the dismissal and reason(s) therefor simultaneously to the parties.
- **Permissive Dismissals:** The College may dismiss a formal complaint or allegations therein if the Title IX Complainant informs the Title IX Coordinator in writing that the Title IX Complainant desires to withdraw the formal complaint or allegations, if the Title IX Respondent is no longer enrolled or employed by the College, or if specific circumstances prevent the College from gathering sufficient evidence to reach a determination.

- **Identification of Investigator:** Identify and document one or more qualified Title IX Investigator(s) who will investigate the Formal Complaint. The Title IX Investigator(s) will investigate the allegations of Title IX Sexual Harassment in a Formal Complaint.
- **Informal Resolution:** Unless the Formal Complaint involves an allegation of sexual misconduct by a College employee against a student, the Title IX Investigator will, within 5 Business Days of assignment to the Formal Complaint, notify the Title IX Complainant and the Title IX Respondent of the option to complete informal resolution. The College will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Formal Complaints of Title IX Sexual Harassment consistent with this policy. The College also will not require parties to participate in an informal resolution process under this policy and may not offer an informal resolution process unless a Formal Complaint is filed. However, at any time prior to reaching a determination regarding responsibility, the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College:
  - Provides to the parties a written notice disclosing:
    - the allegations;
    - the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the Grievance Procedures with respect to the Formal Complaint; and
    - any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
  - Obtains the parties' voluntary, written consent to the informal resolution process, and
  - Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

If informal resolution is undertaken, the Title IX Coordinator or designee will assign an Informal Resolution Facilitator who will attempt to informally resolve the matter between the parties. During the informal resolution process, all timeframes under these Title IX Sexual Harassment Grievance Procedures will be tolled. If no resolution is reached within 20 Business Days of commencement of the informal resolution, unless such 20-day time period is extended by agreement of the parties, or if the parties do not elect to engage in informal resolution, the Title IX Investigator(s) will recommence the investigation and the timeframes under these Title IX Sexual Harassment Grievance Procedures will recommence.

***During the investigation of a Formal Complaint and throughout these Title IX Sexual Harassment Grievance Procedures, the Title IX Team must:***

- **Burdens:** Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties, provided that the College cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the College obtains the voluntary, written consent to do so from that party.
- **Equal Treatment – Evidence Presentation:** Provide an equal opportunity for the parties to present any inculpatory or exculpatory evidence, including fact and expert witnesses. The College will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- **Equal Treatment – Advisors:** Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of an advisor for either the Title IX Complainant or Title IX Respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in the proceedings, if at all, as long as the restrictions apply equally to both parties.
- **Written Notice of Meetings:** Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews and other meetings, with sufficient time for the party to prepare to participate.
- **Equal Opportunity – Evidence Review:** Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the Title IX Investigator(s) must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 calendar days to submit a written response, which the Title IX Investigator(s) will consider prior to completion of the investigative report.
- **Investigative Report:** Within 90 Business Days of receipt of the Formal Complaint, the Title IX Investigator will create an investigative report that fairly summarizes relevant evidence and, at least 10 calendar days prior to a live hearing or other time of determination regarding

responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

***The process used to investigate and resolve a Formal Complaint will also meet the following additional requirements:***

- The process used must treat Title IX Complainants and Title IX Respondents equitably in all manners, including by providing remedies to a Title IX Complainant where a determination of responsibility for Title IX Sexual Harassment has been made against the Title IX Respondent, and by following these Grievance Procedures before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures against a Title IX Respondent.
- No evidence that constitutes or seeks disclosure of information protected under a legally recognized privilege will be required, allowed, or relied on unless the person holding such privilege has waived the privilege.
- The Title IX Investigator and the Title IX Decisionmaker will objectively review all relevant evidence, including both inculpatory and exculpatory evidence, and credibility determinations will not be based on a person's status as a Title IX Complainant, Title IX Respondent, or Witness.
- All members of the Title IX Team will operate under a presumption that the Title IX Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of these Title IX Sexual Harassment Grievance Procedures.
- Remedies must be designed to maintain the Title IX Complainant's equal access to education and may include, but are not limited to, the same individualized services described as Supportive Measures in this policy. Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Title IX Respondent. Student discipline can involve a range of consequences, which may include, but are not limited to, Supportive Measures, a warning, recommendation for suspension and/or expulsion, depending on the severity of the action and circumstances of the student(s) involved. The full range of applicable sanctions is listed above in the **General Grievance Procedures**. Discipline for employees also includes a range of options, including, but not limited to, a letter of reprimand, reassignment, suspension with or without pay, discharge or recommendation for discharge, notifying appropriate legal authorities and/or taking legal action against the employee.
- The Title IX Coordinator or designee may consolidate Formal Complaints as to allegations of Title IX Sexual Harassment against more than one Title IX Respondent, or by more than one Title IX Complainant against one or more Title IX Respondents, or by one party against the other party, where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances.

***After the investigation of a Formal Complaint,*** the Title IX Coordinator or designee and the Title IX Decisionmaker will comply with the following:

- **Designation of Decisionmaker:** The Title IX Coordinator or designee will identify one or more Title IX Decisionmakers for the Formal Complaint, which cannot include the Title IX Coordinator or designee or the Title IX Investigator assigned to the Formal Complaint.
- **Live Hearing:** A live hearing will be provided as part of the Title IX Sexual Harassment Grievance Procedures. The live hearing will comply with the following requirements:
  - The live hearing may, upon the request of either party or at the discretion of the College, be held virtually, with parties located in separate rooms with technology enabling the Title IX Decisionmaker(s) and parties to simultaneously see and hear the party or witness answering questions. Unless the live hearing is conducted virtually, all parties must be physically present in the same geographic location.
  - All hearings will be documented through audio recording, audiovisual recording, or transcript, at the College’s discretion, and will be made available to the parties for inspection or review.
  - At the hearing, the Title IX Decisionmaker(s) must permit each party’s advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenges credibility. Only relevant cross-examination and other questions may be asked of a party or witness. With respect to cross-examination:
    - Questions and evidence about the Title IX Complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Title IX Complainant’s prior sexual behavior are offered to prove that someone other than the Title IX Respondent committed the conduct alleged by the Title IX Complainant, or if the questions and evidence concern specific incidents of the Title IX Complainant’s prior sexual behavior with respect to the Title IX Respondent and are offered to prove Consent.
    - The Title IX Decisionmaker must explain to the party proposing the questions any decision to exclude a question as not relevant. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party’s advisor of choice and never by the party personally.
  - Cross-examination must be conducted by the party’s advisor, and never by the party. If a party does not have an advisor present at the live hearing, the College will provide an advisor of the College’s choice, without charge to the party, who may be, but is not required to be, an attorney to conduct cross-examination on behalf of the party.
  - If a party or witness does not submit to cross-examination at the live hearing, the Title IX Decisionmaker(s) cannot rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Decisionmaker(s) cannot draw an inference about the determination regarding responsibility based solely on the party or witness’s absence or refusal to answer cross-examination or other questions.

- **Live Hearing Procedures:** The Title IX Decisionmaker may establish rules for the live hearing, which may include, but are not limited to, governing decorum, setting time limits for opening and closing remarks, empowering the Title IX Decisionmaker to take a temporary recess, and any such other rules deemed prudent for the effective and efficient conduct of the live hearing; provided, however, that any such rules must be consistent with this policy and must apply equally to the Title IX Complainant and Respondent.
- **Written Determination:** Within 20 Business Days of receipt of the final written responses and evidence from the parties, the Title IX Decisionmaker(s) must issue a written determination regarding responsibility. To reach this decision, the Title IX Decisionmaker(s) must apply the preponderance of the evidence standard, regardless of whether the Title IX Respondent is a student or an employee. The written determination must include:
  - Identification of the allegations potentially constituting Title IX Sexual Harassment
  - A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held
  - Findings of fact supporting the determination
  - Conclusions regarding the application of these Title IX Sexual Harassment Grievance Procedures to the facts
  - A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College will impose on the Title IX Respondent, and whether remedies designed to restore or preserve equal access to the College's Education Program or Activity will be provided by the College to the Title IX Complainant, and
  - The College's procedures and permissible bases for the Title IX Complainant and Title IX Respondent to appeal.
- **Notice of Written Determination:** The Title IX Decisionmaker(s) or a designee must provide the written determination to the parties simultaneously.
- **Appeal:** Both parties may appeal from either a determination regarding responsibility or from the College's dismissal of a Formal Complaint or any allegations therein, on the following bases:
  - Procedural irregularity or error that affected the outcome of the matter
  - New evidence or information 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

- Claims that the Title IX Coordinator or designee, Investigator(s), or Decisionmaker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual Title IX Complainant or Title IX Respondent that affected the outcome of the matter.
- The sanction is disproportionate with the violation (applicable only to complaints of sexual violence, domestic violence, dating violence and stalking).

A Title IX Complainant or Title IX Respondent who wishes to appeal must submit a notice of appeal to the Title IX Coordinator within 5 calendar days of the date of the Title IX Decisionmaker(s)' decision. An appeal may be filed by email, mail, or hand delivery to the Title IX Coordinator. If delivered by mail, the notice of appeal must be postmarked by the 5th calendar day after the date of the Title IX Decisionmaker(s)' decision.

***Upon receipt of an appeal,*** the Title IX Coordinator or designee must do the following:

- **Notice of Appeal:** Within 5 Business Days of receipt of the appeal, notify the other party in writing that an appeal was filed
- **Equal Treatment – Appeal:** Implement appeal procedures equally for both parties
- **Different Title IX Appellate Decisionmaker:** Ensure that the Appellate Decisionmaker(s) are not the same person(s) as the Title IX Decisionmaker(s) that reached the determination regarding responsibility or dismissal, the Title IX Investigator(s) assigned to the formal complaint, or the Title IX Coordinator or designee.
- **Appeal Standards Met:** Ensure that the Title IX Appellate Decisionmaker(s) complies/comply with the standards set forth in this policy for appeals

***Upon receipt of an appeal,*** the Title IX Appellate Decisionmaker(s) must do the following:

- **Equal Treatment – Written Statement:** Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome
- **Written Appeal Decision:** Issue a written decision describing the result of the appeal and the rationale for the result within 30 Business Days of receipt of the notice of appeal, and
- **Notice of Written Appeal Decision:** Provide the written decision on appeal simultaneously to both parties.

If an appeal is successful, the Title IX Coordinator or designee will remand the matter back to the appropriate member of the Title IX Team to remedy the concern. A determination regarding responsibility becomes final on the date that (1) if an appeal is filed, the Title IX Appellate Decisionmaker or designee provides the parties with the written determination of the result of the appeal upholding the determination; or (2) if an appeal is not filed, the date on which an appeal would no longer be

considered timely. The Title IX Coordinator or designee is responsible for effective implementation of any remedies.

***After the conclusion of the Title IX Sexual Harassment Grievance Procedures***, the College or the parties may exercise any rights ancillary to this Title IX process as necessary, e.g. disciplinary processes for suspensions or expulsions of students; tenured faculty dismissal proceedings; any other pre-remedy process required by any applicable law, agreement, policy, or contract; etc.

#### **17.4 Required Title IX Training**

Any person serving as a Title IX Coordinator or designee, Title IX Investigator, Title IX Decisionmaker, Title IX Appellate Decisionmaker, or Title IX Informal Resolution Facilitator, as those terms are defined by these Title IX Sexual Harassment Grievance Procedures, will be trained regarding the definition of Title IX Sexual Harassment, the scope of the College's Education Program or Activity, how to conduct these Title IX Sexual Harassment Grievance Procedures, including appeals and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Any person serving as a Title IX Appellate Decisionmaker or Title IX Decisionmaker under these Title IX Sexual Harassment Grievance Procedures will receive training on the issues of relevance of questions and evidence, including when questions and evidence about the Title IX Complainant's sexual predisposition or prior sexual behavior are not relevant.

Any person serving as a Title IX Investigator under these Title IX Sexual Harassment Grievance Procedures will receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Any materials used to train Title IX Coordinators, their designees, Title IX Investigators, Title IX Decisionmakers, Title IX Appellate Decisionmakers, and Title IX Informal Resolution Facilitators must not rely on sex stereotypes and must promote impartial investigations and adjudications of Formal Complaints of Title IX Sexual Harassment. The College will make all materials used to train Title IX Team members publicly available on its website.

#### **17.5 Required Title IX Recordkeeping**

The Title IX Coordinator or designee will maintain, for a period of at least 7 years, records of:

- Any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of Title IX Sexual Harassment. In each instance, the Title IX Coordinator or designee must document the basis for the conclusion that the College's response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the College's Education Program or Activity. If no Supportive Measures are provided to the Title IX Complainant, then the Title IX Coordinator or designee must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the College in the future from providing additional explanations or detailing additional measures taken,

- Each Title IX Sexual Harassment investigation, including any determination regarding responsibility and any disciplinary sanctions imposed on the Title IX Respondent, and any remedies provided to the Title IX Complainant designed to restore or preserve equal access to the College's Education Program or Activity,
- Any appeal and the result therefrom,
- Any informal resolution and the result therefrom, and
- All materials used to train Title IX Coordinators, their designees, Title IX Investigators, Title IX Decisionmakers, Title IX Appellate Decisionmakers, and Title IX Informal Resolution Facilitators.

### **17.6 Confidentiality**

The College must keep confidential the identity of any individual who has made a report or complaint of sexual discrimination, including Title IX Sexual Harassment; any person who has filed a Formal Complaint of sexual harassment; any Title IX Complainant; any individual who has been reported to be the perpetrator of sex discrimination; any Title IX Respondent; and any witness, except as may be permitted or required by law or to conduct any investigation, hearing, or judicial proceeding arising under these Title IX Sexual Harassment Grievance Procedures. Title IX affirms that a complainant's wishes with respect to whether the school investigates should be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly reasonable in light of the known circumstances.

### **17.7 Amnesty**

Amnesty may be given to individuals reporting sex discrimination, including a Title IX complaint. Amnesty is immunity for individuals who report in good faith an alleged violation of the college's policies prohibiting sex discrimination, including sexual harassment and other misconduct, where reporting might subject the complainant to a disciplinary sanction by the institution, such as for a student conduct violation.

### **17.8 Retaliation Prohibited**

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the State or federal Constitution, State or federal statute, the College policy, these Title IX Sexual Harassment Grievance Procedures, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under these Title IX Sexual Harassment Grievance Procedures.

Charging an individual with a code of conduct violation for knowingly making a materially false statement or knowingly providing false information in the course of an investigation under these Title IX Sexual Harassment Grievance Procedures is not prohibited retaliation; provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement or knowingly provided false information. Complaints alleging retaliation may be filed under the General Grievance Procedures, above.

### **17.9 Right to Pursue Other Remedies Not Impaired**

The right of a person to resolution of a report or complaint under this policy shall not be impaired by the person's pursuit of other remedies, such as criminal complaints, civil actions, etc. Use of this policy and the Grievance Procedures herein are not a prerequisite to the pursuit of other remedies and may not extend any filing deadline related to the pursuit of other remedies. If a person is pursuing another remedy subject to a complaint under this policy, the College will conduct its own investigation, although in some cases delays due to another process may be warranted or required.

### **17.10 Deadlines**

All timeframes under these Title IX Sexual Harassment Grievance Procedures may be temporarily extended for good cause by Title IX Coordinator or a designee. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; the need for language assistance or accommodation of disability; and other circumstances outside of the institution's control. The Title IX Coordinator or a designee shall notify the parties in writing when a timeframe is extended.

### **17.11 Additional Information**

Inquiries about these Title IX Sexual Harassment Grievance Procedures may be directed to the Title IX Coordinator or the United States Office for Civil Rights (contact information available online at: <https://www2.ed.gov/about/offices/list/ocr/addresses.html> and at the end of these Guidelines).

### **17.12 Other Procedures**

To the extent that they do not conflict with any requirements of these Title IX Sexual Harassment Grievance Procedures and are implemented equally and fairly as to the parties, the Title IX Team may use processes from the College sexual harassment and sexual misconduct processes outlined in this Student Handbook when processing Title IX Sexual Harassment reports and complaints. If the College intends to use any such processes in addressing Title IX Sexual Harassment reports or complaints, the Title IX Coordinator or designee will make available written administrative procedures supplementing these Title IX Sexual Harassment Grievance Procedures and detailing the additional procedures to be used.

## **Additional Procedures**

### **18. Education and Training**

The Title IX Coordinator, Deputy Title IX Coordinator, College Police, Mandatory Reporters, Required Reporters, Confidential Advisors, Decision-Makers, Investigators, and anyone else involved in responding to, investigating or adjudicating sexual discrimination, harassment and misconduct incidents must receive 8-10 hours of annual education and training including on issues of relevance, primary prevention, bystander intervention, risk reduction, consent, reporting obligations, investigation procedures, how to serve impartially including by avoiding prejudice of the facts at issue, conflicts of interest, and bias, investigation procedures, confidentiality requirements, relevant

College policies and procedures, retaliation, the scope of the school's education programs and activities, the impact of trauma, how to apply rape shield protections for complainants, relevant definitions, training on any technology to be used at live hearings, and other pertinent topics. The College will annually review its training offerings to identify ways in which to enhance its effectiveness. The College will post materials used to train Title IX Team Members on its website.

The College implements a comprehensive response to sexual assault, domestic violence, dating violence and stalking. The comprehensive approach includes both prevention and intervention and involves a multi-faceted coordinated effort that engages key stakeholders from the community such as students, staff, administrators, and faculty.

## **19. Office for Civil Rights**

Office for Civil Rights,  
Chicago Office  
U.S. Department of Education  
Citigroup Center  
500 W. Madison Street, Suite 1475  
Chicago, IL 60661-4544  
Telephone: (312) 730-1560  
Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)



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