

## Contents

SCOPE .....	3
ANTI-HARASSMENT POLICY AND FREEDOM OF EXPRESSION/ACADEMIC FREEDOM .....	3
DEFINITIONS.....	4
PROHIBITED BEHAVIORS .....	4
PROHIBITION ON KNOWINGLY MAKING FALSE STATEMENTS .....	6
RIGHT TO ADVISOR OF CHOICE.....	8
PRIVACY OF PROCESS .....	8
ACCESS TO CONFIDENTIAL RESOURCES.....	8
IMMUNITY FOR PARTIES WHEN DRUGS OR ALCOHOL ARE INVOLVED.....	9
REPORTING PROHIBITED BEHAVIORS .....	9
1) TIMELINE.....	9
2) FILING A REPORT .....	9
3) MANDATORY REPORTING .....	10
SUPPORTIVE MEASURES .....	10
1) APPEAL OF SUPPORTIVE MEASURES .....	11
REVIEW OF THE REPORT .....	11
1) DISMISSAL OF REPORTS .....	12
2) CONSOLIDATING REPORTS .....	13
3) OTHER VIOLATIONS .....	13
DOCUMENTATION ONLY .....	13
INITIATION OF THE PROCESS .....	13
NOTICE OF ALLEGATIONS:.....	14
INFORMAL RESOLUTION PROCESS .....	14
1) INITIATION OF INFORMAL RESOLUTION .....	14
2) TERMS OF PARTICIPATION .....	14
3) NOTIFICATION.....	15
4) DOCUMENTATION .....	15
5) TYPES OF INFORMAL RESOLUTION PROCESSES .....	15
6) WITHDRAWING FROM THE INFORMAL RESOLUTION PROCESS.....	16
FORMAL RESOLUTION PROCESS.....	17

1)	INITIATION OF THE FORMAL RESOLUTION PROCESS .....	17
2)	IMPLEMENTATION OF INTERIM MEASURES .....	17
3)	INVESTIGATION PROCEDURES .....	18
4)	PRE-HEARING CONFERENCES .....	20
5)	LIVE HEARING PREPARATIONS .....	20
6)	LIVE HEARING PROCEDURES .....	21
7)	DETERMINATION OF RESPONSIBILITY.....	22
8)	SANCTIONS AND REMEDIAL ACTIONS.....	23
9)	WITHDRAW/RESIGNATION DURING A FORMAL RESOLUTION PROCESS.....	25
10)	FORMAL RESOLUTION APPEAL PROCEDURES .....	26
11)	POST-DECISION FOLLOW-UP .....	27

# POLICY

Colorado College (CC, or the College) values the individual diversity and contributions of all *students, employees, applicants, volunteers, and external community members*. We are committed to creating an environment where our intersecting identities allow us to grow and thrive as an educational institution free from discrimination and harassment based on *protected classes* and identities.

It is vital to the protection of our community that all *CC community members* understand both their responsibility to contribute to an environment free from discrimination and harassment, and the College's responsibility to respond to *reported* incidents. The Assistant Vice President for Civil Rights/Title IX Coordinator and Assistant Director for Civil Rights/Title IX Coordinator (hereafter AVP for Civil Rights/Title IX Coordinator or designee) are responsible for receiving and responding to *reports* of discrimination, harassment, and retaliation as required by law.

## SCOPE

This policy is implemented to ensure compliance with local, state, and federal laws in alignment with our community standards. The scope of this policy extends to all prohibited behaviors conducted by *students, volunteers, external community members, employees, third-party contractors*, guests, or anyone doing business with the College on or off campus, including but not limited to campus events, international travel, or any other *CC-sponsored event*.

*Supportive measures* outlined in this policy are available to all *CC Community Members*, regardless of whether the discrimination or harassment they have experienced occurred during or prior to their joining our community. *Supportive measures* are available to a *complainant* regardless of whether they wish to pursue any *formal or informal resolution* process outlined in this policy.

## ANTI-HARASSMENT POLICY AND FREEDOM OF EXPRESSION/ACADEMIC FREEDOM

As an institution of higher education Colorado College is dedicated to upholding the academic freedom and free expression of all CC community members. While the College balances this commitment with its equal commitment to creating an educational and working environment where all CC community members are able to engage in vibrant debate and deep learning free from discrimination and harassment, nothing in this policy should be interpreted as an infringement upon academic freedom. For more information on the College commitment to academic freedom please see the Amended and Restated Bylaws of Colorado College - Article V, the Freedom of Expression Policy, and the Faculty Handbook – Section 2.III.B

## DEFINITIONS

All words or phrases in italics throughout this document are defined in full below. For a full list of definitions, please follow this [link](#).

## PROHIBITED BEHAVIORS

- 1) **PROTECTED CLASS DISCRIMINATION:** The unjust or prejudicial treatment of any person or group of people based on a *protected class*. The College recognizes that discrimination can occur across intersectional identities and multiple *protected classes*. Failure to implement reasonable *accommodations* or *supportive measures* as required by law also constitutes discrimination.
- 2) **PROTECTED CLASS HARASSMENT:** Any unwelcome visual, verbal, written, or physical conduct, directed at an individual because of their membership in a *protected class*, which when taken as a whole, would be offensive to a reasonable person of the same *protected class* identity. Whether behavior constitutes harassment is subject to the specific factors that surround each situation, including the frequency, duration, location, or communication of the conduct. Whether the behavior would be reasonably viewed as offensive must be determined by the totality of the circumstances in which it occurred, including the identity of the individual engaging in the conduct and whether the individual subjected to the conduct felt implicit or explicit pressure to condone, encourage, or participate in the conduct. Overtly threatening or engaging in any form of stereotyping against members of a *protected class* may also constitute harassment.
  - a. **QUID-PRO-QUO HARASSMENT:** Quid-Pro-Quo Harassment occurs when an individual in a position of relative authority over another conditions the provision of any aid, benefit, or service on the other's submission to or participation in unwelcome conduct;
  - b. **HOSTILE ENVIRONMENT:** A hostile environment is created when conduct directed at one or more members of a *protected class* is subjectively and objectively offensive and so severe or pervasive that it limits or denies an individual's ability to access an educational opportunity or work experience. Individuals who make a claim of a hostile environment need not be the target of the alleged harassment but can be anyone impacted by the offensive behavior. Whether conduct would create a hostile environment requires a fact-specific analysis including factors such as: the degree to which the conduct impacted the *complainant's* access; the type, frequency, duration, and location of the conduct; the parties respective ages and roles within the College; previous interactions between the parties; and proximity to other instances of harassment.
  - c. **SEXUAL HARASSMENT:** Any form of harassment that specifically targets an individual based on that individual's sex, gender, sexual orientation, gender identity, gender expression, or pregnancy status. Sexual harassment is also inclusive of the following:
    - i. **SEXUAL ASSAULT:** Any sexual contact with any body part of another person without the recipient's active *consent*, or when the recipient is

incapable of giving active *consent*. Sexual assault falls into three subcategories:

- PENETRATIVE SEXUAL ASSAULT: Any anal, or vaginal penetration, no matter how slight, of another person with any body part or object, without that person's active *consent*. Oral penetration, or contact with a sex organ of another person, without the active *consent* of the other also constitutes penetrative sexual assault.
  - GROPING/FONDLING: Any physical touching of the intimate body parts of another person without that person's active *consent*.
  - STATUTORY RAPE: Any sexual act conducted with an individual who is under the age of legal *consent*. Colorado law sets the age of *consent* at 17 with an exception for individuals who are 15 or 16 who have consensual relationships with individuals up to 10 years older than them. Age of *consent* varies from state to state and individuals who are interested in a consensual relationship with someone under the age of 18 should familiarize themselves with age of *consent* laws in the state they are present in.
- ii. INTIMATE PARTNER VIOLENCE Any form of physical violence committed by a person who is, or has been, in a relationship of a romantic or intimate nature with the individual the violence is perpetrated against. This also includes any violence committed against a current or former legal partner, any person whom the individual shares a child with, or any child of the individual.
- iii. STALKING: Any course of conduct directed at a specific person which would cause a reasonable person to fear for their safety or the safety of another, or which causes substantial emotional distress. Stalking requires that an individual engage in two or more actions which involve following, monitoring, observing, surveilling, threatening, or interfering with the property of the other. These actions may be conducted directly by the stalker, through a third party at the direction of the stalker, or via any indirect method. This includes the use of the internet, mobile applications, social networks, cell phones, texts, or other similar devices.
- iv. SEXUAL EXPLOITATION: Taking sexual advantage of another person without that person's active *consent* for any purpose. This includes photographing, videotaping, or audio taping any sexual activity without the other's active *consent*; sharing consensually obtained photographs, videotapes, or audiotapes with others without the active *consent* of those involved (also known as revenge porn); invasion of sexual privacy (such as hiding to observe others in a state of undress or in sexual situations, live-streaming a sexual activity without the active *consent* of those involved, or allowing another to physically observe sexual encounters without the active *consent* of those involved); exposing one's intimate

parts, such as genitalia, groin, breasts, or buttocks to someone without their active *consent* (also referred to as indecent exposure); and prostituting another individual for personal gain. Producing sexually explicit images of another person using artificial intelligence or image editing software, or intentionally distributing such images without the consent of the individual depicted also constitutes sexual exploitation.

- 2) **OBSTRUCTION:** Intentionally deterring, interfering, or hindering the College's ability to complete a *formal resolution process*. (e.g., the destruction or request to destroy *relevant evidence* after notice of the College's investigation). Instructing another person to engage in obstruction, as well as engaging in obstruction on behalf of another person are also considered to be a violation of this policy.
- 3) **RETALIATION:** Any intentional action committed against any *complainant, respondent, witness, advisor, or any other participant* in any process outlined in this policy in response to their participation, or lack of participation, in that process constitutes retaliation. Retaliation may include using one's position or authority to negatively impact an individual engaged in a protected act or for asserting their rights to be free from discrimination or harassment. The use of any intimidation or threats which are designed to limit an individual's participation and discouraging or attempting to discourage any individual from making a good faith *report* may also constitute retaliation. Examples of retaliation may include but are not limited to:
  - a. Threats of reprisals;
  - b. Egregious actions/behavior outside of the norm occurring after a *report* is filed;
  - c. Changes in job duties, job location, or work schedules;
  - d. Unreasonable changes in housing location or academic expectations;
  - e. Withholding scholarships, salary, or other sources of income;
  - f. Altering grades or scoring rubrics after a *report* is filed;
  - g. Denial of a tool or training that will assist in the ability to perform a job or achieve academic success;
  - h. Unwarranted verbal or written reprimands;
  - i. Unwarranted and abrupt address utilizing performance reviews/evaluation systems

## PROHIBITION ON KNOWINGLY MAKING FALSE STATEMENTS

*CC community members* are expected to provide truthful information in any *report, meeting or proceeding* under this Policy. Providing or submitting false or misleading information in bad faith is prohibited and such conduct may be disciplined under the relevant College policies and procedures. *Reports* made or information provided in *good faith*, even if the facts are later *unsubstantiated*, will not be subject to disciplinary consequences.

This clause shall not be implemented in a manner intended to deter *CC community members* from *reporting*. It is a requirement that all *CC community members* engage in *good faith* when seeking to *report* acts that violate the behavior and institutional standards outlined in this policy or when serving as a witness in a *formal resolution process*. Actions made in *good faith* shall not

be punishable in accordance with the totality and intention of this policy and CC's commitment to creating a safe environment where *reporting* is encouraged. A *determination* that an allegation is *unsubstantiated* does not mean that a *report* was not made in *good faith*.

# PROCEDURES

The process outlined in this policy is the structure in which the College will address all *reports* of Civil Rights violations. The College has elected to provide all notification and most procedural requirements contained in the 2024 Title IX regulations for all Civil Rights processes for transparency and consistency.

For a brief summary of the various options that are available for addressing or resolving *reports* of discrimination, harassment, or sexual harassment please visit the Office for Civil Rights and Title IX: Options webpage.

## RIGHT TO ADVISOR OF CHOICE

Each party is entitled to an advisor of their choice, who may be an attorney, to provide support, guidance, and advice during any meeting related to a *report* alleging violations of this policy. The scope of the role of an *advisor of choice* is outlined in the definitions section of this policy.

## PRIVACY OF PROCESS

All aspects of the resolution procedures will remain private to the extent permissible by law; however, the College cannot guarantee *privacy* in cases where such protection allows the behavior to continue; the College otherwise has an obligation to address the behavior or disclose it on a need-to-know basis; or is subject to a lawful subpoena by the courts.

While the College does not restrict any party's ability to discuss their involvement in a process under this Policy or share their experiences leading to the filing of a *report*, parties may not disseminate or otherwise disclose information or evidence obtained solely through their participation in these procedures.

## ACCESS TO CONFIDENTIAL RESOURCES

*CC community members* involved in a situation involving alleged prohibited behavior may contact a *confidential resource* to discuss the behavior at issue and the options available. *Confidential resources* may offer support including, but not limited to consultation, personal counseling, referrals to community resources for additional assistance; pursuing resolution of the issue through the College's informal or formal procedures; and reporting to the local police.

Confidential resources on campus include:

- [Campus Advocate](#)
- [Counseling Center](#)
- [Chaplain's Office](#)
- [Ombuds Office](#)
- [Employee Assistance Program \(EAP\)](#)

## IMMUNITY FOR PARTIES WHEN DRUGS OR ALCOHOL ARE INVOLVED

The College will not pursue disciplinary action against individuals who disclose alcohol or substance use or abuse while filing a *report* of discrimination, harassment, or sexual harassment, or while acting as a witness during the *informal* or *formal resolution procedures* of an alleged violation of this policy. If the College is investigating cases of sexual misconduct that occur while the parties are under the influence of alcohol or drugs, the College will not pursue alcohol and/or drug charges against the *respondent* except in cases where it is alleged that the *respondent* provided excessive drugs or alcohol to the *complainant* with the intent to engage in sexual activity while the *complainant* was incapacitated. The College may still seek to provide resources and support to individuals who *report* struggling with alcohol or substance abuse.

## REPORTING PROHIBITED BEHAVIORS

### 1) TIMELINE

There is no time limit for when a violation of this Policy may be *reported* to the College, however, the College strongly encourages *CC community members* to *report* incidents as soon as possible to maximize the College's ability to respond promptly and effectively. The timing of when an alleged incident is *reported* may affect the College's ability to respond to the *report*.

Upon receipt of an initial *report*, the College will reach out to the *complainant* within 1-2 business days. Any *report* that proceeds to a *formal resolution process* will typically be resolved within ninety (90) calendar days. The appeal process has a separate timeline and typically takes 15 business days.

College breaks, holidays, a party's need for *disability-related accommodations*, concurrent law enforcement activities, and/or unforeseen circumstances may impact this timeline. If the process must be delayed or extended, the AVP for Civil Rights/Title IX Coordinator will provide the *complainant* and *respondent* with written notice.

### 2) FILING A REPORT

- a. Emergency Reporting: If you have immediate safety concerns or require medical attention, please contact 911 and/or Campus Safety at (719) 389-6911.
- b. Immediate Supports: If you are seeking immediate mental health support or are looking to talk to someone about a concern, please visit the Office for Civil Rights and Title IX resource page for a full list of local and national resources.
- c. Filing a Report with the Office for Civil Rights and Title IX: To *report* an incident to the College please utilize the online *reporting* system via the Office for Civil Rights and Title IX Reporting Portal.
- d. Anonymous Reporting: Individuals may use the Speak Up Colorado College anonymous *reporting* tool to share concerns with the College anonymously.

### 3) MANDATORY REPORTING

All *employees* of the College, except for the *confidential resources* listed above, are *mandatory reporters* for the purposes of this policy. *Mandatory reporters* must promptly notify the Office for Civil Rights and Title IX of all known details related to possible incidents of discrimination, harassment, sexual harassment, or retaliation that is *reported* to them directly, indirectly, or that they may have observed. *Mandatory reporters* must *report* such information regardless of where the incident occurred.

Information which is shared by an individual during a public event to raise awareness about discrimination or harassment is not subject to this *mandatory reporting* requirement unless there is an indication that there is an imminent and serious threat to the health and safety of a *CC Community Member*.

If an *employee* learns of an incident that predates the *complainant's* time at the College, they are only required to *report* to the Office for Civil Rights and Title IX if there is information suggesting that the incident is having an ongoing impact on the *complainant's* ability to engage in typical work functions or access an educational opportunity or benefit. However, *employees* should always encourage parties who have experienced past instances of discrimination or harassment to connect with appropriate resources, including the Office for Civil Rights and Title IX.

*Employees* are not obligated to *report* incidents of discrimination or harassment that they have personally been the target of, and *student-employees* are only obligated to *report* information they learn within the context of their employment. If an *employee* has a question about whether to *report* conduct, they should consult with the AVP for Civil Rights/Title IX Coordinator or Deputy AVP for Civil Rights/Title IX Coordinator.

## SUPPORTIVE MEASURES

*Supportive measures* can be provided by the Office of Civil Rights and Title IX proactively outside of, or in addition to, any *formal* or *informal resolution process*. Additionally, *supportive measures* can be accessed by all *CC community members*, whether an incident was experienced prior to becoming a community member or during one's time at CC. The College will collaborate with parties to identify appropriate *supportive measures* which allow the restoration and preservation of access to an educational or workplace environment free from the impacts of discrimination or harassment. *Supportive measures* implemented by the College may not impose an undue burden on either party.

*Supportive measures* can also be initiated through the Campus Advocate. The Campus Advocate may coordinate the implementation of *supportive measures* for *students* who are impacted by sexual harassment, even if the party chooses not to file a *report* of sexual harassment.

*Supportive measures* include, but are not limited to:

- 1) Safety measures, such as accompanying a party to submit a police report, connecting a party with an external community provider for additional advocacy services, obtaining protection orders from a court, or Campus Safety escorts;

- 2) Modifying living arrangements, class schedules, extracurricular activities, or working arrangements;
- 3) Ordering the *complainant* and *respondent* to have no further contact with each other and/or other third parties;
- 4) Connection to the Counseling Center or the Employee Assistance Program (EAP), or support receiving referrals to external mental health services;
- 5) Providing support services referrals, such as academic support, *disability* support, and health services;
- 6) Leaves of absence;
- 7) Increased monitoring of certain areas of the campus;
- 8) Offering targeted education related to the incident;
- 9) Other resource information as needed

The College may modify, supplement, or terminate previously approved *supportive measures* at any time based on the changed circumstances of the parties and/or the procedures invoked by this policy. Such modifications, supplements or terminations may be requested by the party they apply to, or made at the recommendation of the AVP for Civil Rights/Title IX Coordinator or designee.

#### 1) APPEAL OF SUPPORTIVE MEASURES

Any decision to provide, deny, modify, or terminate requested *supportive measures* is appealable within five (5) business days of the decision being made. Appeals must be submitted in writing to the Office for Civil Rights and Title IX and include an explanation of the *supportive measures* requested, any alternative *supportive measures* implemented, and a statement as to why the implementation, denial, modification, or termination of the requested *supportive measure* fails to restore the requesting party's access to educational opportunities or work experiences.

Appeals of decisions made by the Campus Advocate or Assistant Director for Civil Rights/Deputy Title IX Coordinator will be reviewed by the AVP for Civil Rights/Title IX Coordinator. Appeals of decisions made by the AVP for Civil Rights/Title IX Coordinator will be reviewed by the Dean of the College/Chief Operating Officer.

## REVIEW OF THE REPORT

Upon receipt of a *report* alleging a violation of this policy, the AVP for Civil Rights/Title IX Coordinator will conduct a thorough review of the information provided and determine if the *report* alleges prohibited behavior outlined in this policy.

Examples of prohibited behavior may include but is not limited to:

- Treating person(s) of a *protected class* differently from another in determining whether such person is deserving of an aid, benefit, or service they would otherwise be entitled to;
- *Disparate treatment* of a person(s) of a *protected class*;
- Denying or providing different aid, benefits, or services or providing aid, benefits, or services in a different manner to person(s) of a *protected class*;

- Subjecting a person(s) of a *protected class* to separate or different rules of behavior, sanctions, or other treatment;
- Discriminating against a person(s) of a *protected class* in the application of any policies or procedures;
- Otherwise limiting any person(s) of a *protected class* in the enjoyment of any right, privilege, advantage, or opportunity.

If it is determined that the *report* merits further review by the Office for Civil Rights and Title IX, the AVP for Civil Rights/Title IX Coordinator will conduct an initial outreach to the *complainant* to offer resources and the ability to schedule a meeting to explore resolution options. If a *complainant* fails to respond to outreach from the AVP for Civil Rights/Title IX Coordinator within two (2) weeks or informs the AVP for Civil Rights/Title IX Coordinator that they are not interested in pursuing further action, the case will be marked as resolved and the *complainant* notified of their right to reopen the case at any point in the future.

#### 1) DISMISSAL OF REPORTS

Allegations of conduct which, even if proven true, would not constitute protected class discrimination, protected class harassment, sexual harassment, or retaliation as outlined in this policy may be dismissed from these procedures by the AVP for Civil Rights/Title IX Coordinator or designee.

The AVP for Civil Rights/Title IX Coordinator or their designee may also dismiss *formal complaints* under the following circumstances:

- i. The *complainant* notifies the AVP for Civil Rights/Title IX Coordinator or designee in writing that the *complainant* wishes to voluntarily withdraw the *formal complaint*;
  - ii. The *respondent* is no longer enrolled at or employed by the College; or
  - iii. The Office for Civil Rights and Title IX is unable to identify the *respondent* after taking reasonable steps to do so.
- a. Notice of Dismissal and Right to Appeal: Upon dismissal, the AVP for Civil Rights/Title IX Coordinator or designee will promptly send written notice to the parties, stating the reasons for the dismissal. Both parties have a right to appeal the dismissal unless the dismissal occurs prior to the *respondent* being notified of the allegations in which case only the *complainant* will have a right to an appeal.
  - b. Dismissal Appeals Process: If either party wishes to appeal the dismissal, they must submit an appeal in writing to the Office for Civil Rights and Title IX within five (5) business days. Appeals will be reviewed and determined by either the Dean of the College/Chief Operating Officer or the Chief of Staff.
  - c. Other Processes and Remedies: Reports dismissed for failing to allege violations of this policy may be referred to other college officials, such as the Dean of Students, Dean of Faculty, or Human Resources for investigation and adjudication under appropriate policies and procedures.  
*Reports* dismissed due to an inability to identify a *respondent* will inform the College's decision to implement targeted training, programing, or other campus

safety measures to prevent future incidents of a similar nature.  
Parties are still entitled to *supportive measures* even if the *report* is dismissed.

## 2) CONSOLIDATING REPORTS

If multiple *reports* are received involving the same parties or arising out of the same facts or circumstances, the College may choose to consolidate the *reports* or resolve them separately.

## 3) OTHER VIOLATIONS

If a *report* also alleges violations of other College policies, such as the Student Community Standards, the Faculty Handbook, the Staff Handbook, or the Code of Ethical Conduct, those allegations may be investigated separately or resolved within the process articulated in this policy, at the College's sole discretion. Parties will receive written notice of any decision to investigate any allegations through a separate process.

## DOCUMENTATION ONLY

If the Office for Civil Rights and Title IX receives information alleging a violation of this policy, a *complainant* may meet with the AVP for Civil Rights/Title IX Coordinator to inquire about and receive *supportive measures* from the College without requiring any additional processing of the *report*. The initial *report* and conversation will be officially documented by the AVP for Civil Rights/Title IX Coordinator and will be maintained within the official records of the Office for Civil Rights and Title IX consistent with the College's records retention policy. If a case is resolved as documentation only, the *complainant* may at a future date choose to request modifications to any *supportive measures* received or to move forward with either a *formal* or *informal resolution process*.

If a *report* contains information suggesting there may be a risk of ongoing safety concerns if not addressed by the College, then the AVP for Civil Rights/Title IX Coordinator may be required to initiate a *formal resolution process* even if a *complainant* only wishes to have their concerns documented. See "INITIATION OF THE PROCESS" below for more information.

## INITIATION OF THE PROCESS

Initiation of a *formal* or *informal resolution process* requires the submission of a *formal complaint*. A *formal complaint* will typically be initiated by the *complainant*, however, in some circumstances the AVP for Civil Rights/Title IX Coordinator may file a *formal complaint* on behalf of the College. The AVP for Civil Rights/Title IX Coordinator will only file a *formal complaint* on behalf of the College after making a fact-specific determination based on the following factors:

- 1) The *complainant's* request not to file a *formal complaint*;
- 2) The *complainant's* reasonable safety concerns regarding the filing of a *formal complaint*;
- 3) The risk of future incidents of discrimination or harassment if a *formal complaint* is not filed;
- 4) The severity of the alleged behavior in the *report*;

- 5) The relationship between the parties, including whether the *respondent* is an employee of the College;
- 6) The scope of the allegations or the existence of prior reports demonstrating concerns of on-going or a pattern of discrimination or harassment;
- 7) The ability of the College to gather evidence to substantiate the allegations, including whether the *complainant* or other witnesses are willing to participate in a *formal* or *informal resolution process*; and
- 8) Whether there are alternative methods of ending the discrimination or harassment and preventing its recurrence available to the College.

If the AVP for Civil Rights/Title IX Coordinator files a *formal complaint* on behalf of the College, the *complainant* will be notified in advance and will be invited, but not obligated, to participate in the *formal resolution process*.

A *complainant* retains the right to access *supportive measures* without filing a *formal complaint*.

## NOTICE OF ALLEGATIONS:

Within seven (7) business days of receiving a *formal complaint*, the AVP for Civil Rights/Title IX Coordinator will provide written notice of the allegations to both parties. This notice will include the behaviors the *respondent* has been alleged to have engaged in, the prohibited behaviors which are applicable to the allegations, and details of the resolution procedures to be followed.

- 1) Duty to Supplement: If the College, at any time during the investigation, starts to investigate allegations that are outside of the scope of the written notice, the College will provide a supplemental written notice describing the additional allegations to be investigated.

## INFORMAL RESOLUTION PROCESS

### 1) INITIATION OF INFORMAL RESOLUTION

Once a complaint is made, the *informal resolution procedures* may be pursued at any time prior to the resolution of a *formal resolution process*. Initiation of the *informal resolution process* requires that the involved parties are interested and agree to participate in an informal resolution procedure. The informal resolution procedures may be stopped at any time by the *complainant* or *respondent*. If informal resolution procedures are stopped at any time, the formal procedures may be followed at the *complainant's* discretion.

### 2) TERMS OF PARTICIPATION

As the *informal resolution process* will not result in a *determination* of whether the allegations are *substantiated*, the College will offer an *informal resolution process* on a case-by-case basis. The *informal resolution process* may not be appropriate to resolve some allegations of discrimination, harassment, or sexual harassment when the incident *reported*:

- Is sufficiently serious to require immediate interim measures or emergency removal;
- There is reason for the AVP for Civil Rights/Title IX Coordinator to believe that one party is placing pressure upon the other to pursue informal resolution, or when the allegations are related to on-going intimate partner violence;
- If there is an inherent and substantial power imbalance between the parties, such as when a *student* has filed a complaint against an *employee*; or
- When the college has received prior *reports* of a similar nature involving the same *respondent*.

### 3) NOTIFICATION

After a *formal complaint* has been made, but before the parties agree to participate in the *informal resolution process*, the College will fully disclose the allegations and the parties' option to proceed with the *formal resolution process*.

### 4) DOCUMENTATION

The initiation and final resolution of all *informal resolutions* will be documented in writing by the College. Disclosures made in an *informal resolution process* may not be used in an investigation of the same allegations. However, resolving a complaint through the *informal resolution process* does not prevent the Office of Civil Rights and Title IX from utilizing information disclosed to show a pattern of prohibited behavior if a separate *report* is initiated involving the same *respondent*.

### 5) TYPES OF INFORMAL RESOLUTION PROCESSES

In all *informal resolution processes*, the AVP for Civil Rights/Title IX Coordinator or other designated officials will work in partnership with the *complainant* and *respondent* to identify an acceptable resolution. The options for an *informal resolution process* include:

- a. Constructive Feedback & Facilitated Resolution: The AVP for Civil Rights/Title IX Coordinator, or other designated officials may facilitate communication with the *respondent*. The AVP for Civil Rights/Title IX Coordinator or designated official will then follow up with the *complainant* to determine if the resolution is acceptable. This process is appropriate for situations in which the *complainant* is only seeking for the *respondent* to be notified that unwanted behaviors are having a negative impact on the *complainant*. If, following constructive feedback & facilitated resolution, the unwanted behavior persists, the College may move forward with a *formal resolution process* at the request of the *complainant*. If the *respondent* is an *employee*, the AVP for Civil Rights/Title IX Coordinator may also notify the *employee's* supervisor about the *report* to support the professional growth and development of the *employee*.
- b. Facilitated Mediation: The AVP for Civil Rights/Title IX Coordinator, or other designated officials, may serve as a mediator between the *complainant* and the *respondent* using the following formats:

- i. Direct Mediation: The *complainant* and the *respondent* will discuss and attempt to resolve the matter directly; or
- ii. Indirect Mediation: The *complainant* does not communicate directly with the *respondent* and conversation is facilitated through the mediator over the course of several individual meetings.

There is no guarantee of the success of a mediation and either party may at any time choose to withdraw from a mediation should they find that they are unable to meet their needs in mediation. The role of the mediator is to guide the conversation and keep parties engaged in effective communication. A mediator guides parties to find their own resolution terms and does not force resolution on the parties.

All successful mediations will end with the parties signing a written agreement outlining the steps each will take moving forward that will ensure that unwanted behavior does not occur in the future. Violations of a mediation agreement may result in either the initiation of a *formal resolution process* or a referral to another appropriate office for corrective action, such as the Dean of Student's Office, Dean of the Faculty Office, or Human Resources.

- c. Cultural Analysis: At the discretion and initiation of the AVP for Civil Rights/Title IX Coordinator, a culture analysis may be used as an exploratory and proactive strategy to assess any contributing contextual factors of *reported* behavior patterns operating within a given environment. Cultural analysis does not require the submission of a *formal complaint* and may be pursued absent the wishes of the *complainant*.
  - d. Bias Response Team: At the discretion and initiation of the AVP for Civil Rights/Title IX Coordinator, the bias response team can be activated. Activation of the bias response team will occur when an incident results in community impact which the College has a need to respond to. The bias response team is not an investigatory body and has no authority to implement disciplinary action. The activation of the bias response team does not require the submission of a *formal complaint* and may be pursued absent the wishes of the *complainant* or in situations where no *complainant* is identified.
  - e. Other Processes: There may be other available informal resolution procedures as determined in collaboration between the AVP for Civil Rights/Title IX Coordinator and the parties. For example, a restorative justice approach or other measures which do not impose undue burden upon the *respondent* may be used as an approach to address a *report* of prohibited behavior under this Policy.
- 6) WITHDRAWING FROM THE INFORMAL RESOLUTION PROCESS

The *complainant* or the *respondent* may at any time—prior to reaching a resolution—end the *informal resolution process*. When an *informal resolution process* is ended in this manner, the College may pursue the *formal resolution process* (described below) upon request of the *complainant*.

## FORMAL RESOLUTION PROCESS

The *formal resolution process* involves (1) a formal investigation of the complaint, (2) a live hearing overseen by a panel of decision makers, and (3) a formal decision as to whether the complaint is *substantiated*.

The College's *formal resolution process* provides the parties with an equal opportunity to: present witnesses; present *relevant evidence*; and inspect and review all *relevant evidence* obtained as part of the investigation. A *respondent* is presumed not to have violated this policy, and a *determination* as to whether the allegations are *substantiated* is made only at the conclusion of a *formal resolution process*. The *formal resolution process* fully complies with Title IX and other civil rights regulations. At the conclusion of a *formal resolution process*, the College will implement meaningful remedies, including disciplinary action if the complaint is *substantiated*.

### 1) INITIATION OF THE FORMAL RESOLUTION PROCESS

When initiating a *formal resolution process*, the AVP for Civil Rights/Title IX Coordinator will assign a neutral fact-gatherer to investigate the *complaint*. The AVP for Civil Rights/Title IX Coordinator will include the identity of the investigator(s) assigned to the case in the notice of allegations. Each party will have three (3) business days from the delivery of the notice to challenge the assignment of the investigator(s) based on a real or perceived conflict of interest. Final decisions as to whether to remove an investigator from a case are subject to the discretion of the AVP for Civil Rights/Title IX Coordinator, who will provide a written explanation for their decision to the parties.

- a. Formal Procedures Involving Cabinet Members or Office for Civil Rights and Title IX Staff: If a complaint is submitted involving allegations against the President, a member of the President's cabinet, or a staff member within the Office for Civil Rights and Title IX, the AVP for Civil Rights/Title IX Coordinator will contact the Executive Committee of the Board of Trustees. The Executive Committee will appoint an appropriate investigator or investigators to investigate the report.
- b. Continuation of Procedures Despite Change of Status: Once the *formal resolution processes* have been initiated, the *report* will be investigated and/or otherwise resolved in a manner deemed appropriate by the College, even if the *complainant* or *respondent* leaves the College.

### 2) IMPLEMENTATION OF INTERIM MEASURES

At the initiation of any *formal resolution process* the College will issue, within the Notice of Allegations, a mutually binding no-contact order to the parties. When some contact between the parties is necessary to ensure continued maintenance of job performance and/or uninterrupted educational opportunities such orders will be modified to limited-contact orders. Limited-contact orders will be implemented in as narrow a scope as possible to avoid disruption while also ensuring anti-retaliation measures are in place.

Additionally, parties involved in a *formal resolution* process may choose to request additional *supportive measures* be implemented in a limited capacity to mitigate the impact of the *formal resolution process* on their ability to effectively learn and/or work.

While *supportive measures* cannot impose an undue burden on the *respondent*, in cases where the *respondent* is an *employee* of the College, the AVP for Civil Rights/Title IX Coordinator will convene a *threat assessment team* to determine whether to place the *employee* on administrative leave pending the resolution of the *formal resolution process*. If during a *formal resolution process* evidence of retaliation by an *employee-respondent*, or at the direction of an *employee-respondent*, is provided to the Office for Civil Rights and Title IX the *employee* will immediately be placed on administrative leave pending the resolution of the case.

Generally, the College may only take disciplinary action against a *student-respondent* at the conclusion of a formal process. However, where a *student-respondent* is deemed to pose an immediate threat to the health or safety of the *complainant* or anyone else, the College may suspend the *student* on an interim basis. Here, health and safety refer to the physical and mental health of the *complainant* or others. Prior to implementing an interim suspension, the *respondent* will be notified of the specific allegations which leads the College to believe that they pose an immediate threat and be provided with an opportunity to respond. The AVP for Civil Rights/Title IX Coordinator will convene a *threat assessment team* to determine if an interim suspension is warranted.

### 3) INVESTIGATION PROCEDURES

All formal investigations will be conducted in a prompt, thorough, and impartial manner. The investigative process will proceed as follows: (1) interviewing the *complainant*, the *respondent*, and *relevant witnesses*; (2) collecting evidence and objectively evaluating whether the evidence is relevant; and (3) preparing an investigative *report* that impartially summarizes party and witness statements along with all *relevant evidence*.

- a. Interviewing Parties and Witnesses: The investigator(s) will attempt to contact and interview the *complainant*, *respondent*, and any *relevant witnesses* identified through the investigation. Where reasonably possible investigators will prioritize interviewing an equivalent number of *relevant witnesses* presented by each party. Investigators may ask questions of the parties to determine the relevancy of their witnesses and may choose to exclude some witnesses from interviews when the witness is deemed irrelevant or only able to share information duplicative of other witnesses. If the investigator chooses to exclude a witness, they will notify the party who proposed the witness of the rationale for exclusion. Parties who have a witness excluded will have an opportunity to appeal the decision to the AVP for Civil Rights/Title IX Coordinator. Appeals of witness exclusion must be made prior to the delivery of the final investigative report.
- b. Collecting Evidence: The College bears the burden of gathering *relevant evidence* for the resolution of the complaint. The types of *relevant evidence* which the College may seek to gather includes but is not limited to: copies of text messages,

emails, photos, videos, private and public social media postings, security camera footage, written records (such as journal entries) and other available electronic data.

- i. Collection of Medical Records: Unless the College obtains a party's voluntary, written consent, the College will not seek to access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional in connection with the provision of treatment to the party.
  - ii. Collection of Privileged Information: The College will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
  - iii. Collection of Educational Records: The College may access educational records, including prior disciplinary records, that are relevant to the investigation and maintained by the college under the educational need-to-know exemption within the Family Educational Rights and Privacy Act (FERPA). Prior disciplinary records will not be used as the sole basis for determining whether allegations are *substantiated*, however, they may be used to demonstrate a pattern of behavior or be considered a factor in determining appropriate sanctions if the allegations are *substantiated* by other evidence.
- c. Preparing the Final Investigation Report: After completing the investigative procedures, the investigator(s) will draft an investigative report containing summaries of all interviews and copies of all *relevant evidence* gathered. The investigator(s) are ultimately responsible for determining what evidence is relevant. The investigator(s) will share a copy of the investigation report with the AVP for Civil Rights/Title IX Coordinator for an initial *sufficiency review*. The AVP for Civil Rights/Title IX Coordinator will not alter any portion of the investigative report but may require further investigation by the investigator if the investigative report is insufficient.

Upon determination that the investigation satisfactorily meets the standards outlined in this policy, the AVP for Civil Rights/Title IX Coordinator will share the investigative report and all *relevant evidence* to the parties for their review in advance of the live hearing. Sensitive information including names, addresses, contact information, and physical or mental health related information that a party has not chosen to waive their rights over will be redacted from this report. Parties will be provided with a witness key to identify who has provided information to the college in connection with the investigation.

The AVP for Civil Rights/Title IX Coordinator will also include in the investigative report the names of the panel members who will be assigned to the case as *decision makers*. Parties will have three (3) business days to object to the inclusion of one or more panel members on the basis of real or perceived conflicts of interest. Final determinations as to whether to remove a panel member from a

case are subject to the discretion of the AVP for Civil Rights/Title IX Coordinator, who will provide a written explanation for their decision to the parties.

#### 4) PRE-HEARING CONFERENCES

When sharing the investigative report with the parties the AVP for Civil Rights/Title IX Coordinator will also schedule a pre-hearing conference with the parties. This pre-hearing conference will take place at least five (5) business days after the delivery of the investigative report. At the pre-hearing conference the AVP for Civil Rights/Title IX Coordinator will meet with the parties and their advisors individually to review hearing procedures, review witness lists, resolve evidentiary questions or concerns, and consider any other pre-hearing matters.

Parties may also submit any new or additional evidence they have gathered in response to the investigative report for inclusion and consideration at the live hearing during the pre-hearing conference. Failure to present evidence during the investigation or at the time of the pre-hearing conference is considered a waiver of the right to have the evidence presented and considered at the live hearing. Parties and their advisors will also be informed of their right to prepare questions they would like the panel to ask the other party or witnesses at the live hearing on their behalf.

#### 5) LIVE HEARING PREPARATIONS

All *formal resolution processes* will conclude with a live hearing comprised of a three-person panel and overseen by the AVP for Civil Rights/Title IX Coordinator as a non-decision-making chair. The hearing panel will evaluate whether the evidence presented throughout the investigation meets the *preponderance of the evidence* standard to substantiate the allegations in the *formal complaint*.

- a. Composition of the Hearing Panel: The AVP for Civil Rights/Title IX Coordinator will maintain a pool of potential hearing panel members consisting of staff and faculty trained on an annual basis for the purpose of serving on hearing panels. For all cases involving allegations against a faculty member the panel will include at least one faculty member.
- b. Role of the Chairperson: The AVP for Civil Rights/Title IX Coordinator, acting in the role of the chairperson, will ensure that the procedures outlined here are followed throughout the live hearing.
- c. Advisor of Choice: If a party does not have access to an advisor for the purpose of assisting in the live hearing the College will provide, without fee or charge, an advisor of the College's choice to that party.
- d. Scheduling: The AVP for Civil Rights/Title IX Coordinator will work with the parties and their advisors to schedule a live hearing that does not unreasonably conflict with their schedules. Live hearings will be scheduled to take place as soon as possible following the pre-hearing conference based on the availability of parties, their advisors, hearing panel members, and the chairperson.

Depending on the circumstances, live hearings may last anywhere from a half-day to two (2) or more days. After a live hearing has been scheduled, it may not be rescheduled due to conflicts with a party advisor's schedule; therefore, parties are recommended to select an advisor who is available to attend the scheduled live hearing. If a party has an emergency arise which would require them to miss the scheduled hearing the hearing may be rescheduled at the discretion of the AVP for Civil Rights/Title IX Coordinator.

- e. Witness Scheduling: The AVP for Civil Rights/Title IX Coordinator will work with witnesses directly to coordinate their appearance at the live hearing. Witnesses are not obligated to participate in the hearing and hearings will not be rescheduled based on the scheduling conflict of a witness.
- f. Location: By default, the College will provide for a live hearing to occur with the parties located in separate rooms utilizing technology to enable the hearing panel and parties to simultaneously see and hear the party or the witness answering questions. At the parties' request and agreement, the College may schedule a live hearing to occur fully in-person.
- g. Record Keeping: The College will create an audio recording, audiovisual recording, or transcript of all live hearings. The recording or transcript of participating parties' hearings will be made available to the parties for inspection and review upon request.

## 6) LIVE HEARING PROCEDURES

- a. Panel Preparations: At the outset of the hearing, each party and their advisor will be given an opportunity to present a set of questions they would like the hearing panel to ask of the other party or any witnesses. The chairperson will review all questions in advance and will strike any proposed questions which are not relevant or otherwise impermissible. The party and their advisor will have an opportunity to clarify or revise any struck questions that the chairperson has deemed to be harassing or unclear. If the party sufficiently clarifies or revises a question it will be included in the list for the hearing panel to ask. The panel will limit their considerations to information presented in the investigative report. The panel chair will instruct the panel to disregard any new information presented for the first time at the hearing.
- b. Opening Statements: During the live hearing, each party will have the opportunity to make an opening statement highlighting the information from the investigation they feel is most pertinent for the consideration of the hearing panel.
- c. Questioning of Parties and Witnesses: Following opening statements the hearing panel will have the opportunity to ask questions of each party directly, after which witnesses will appear for additional questioning. During the questioning of parties and witnesses the hearing panel will also ask all questions proposed by the parties or their advisors prior to the hearing and not struck by the chairperson. If, following the questioning of a party or witness a party or their advisor would like to propose additional questions a recess will be called to allow the chairperson to

meet with the party and their advisor individually to determine whether any of the additional questions must be struck due to lack of relevance or for being otherwise impermissible.

- d. Relevancy and Prohibited Questions: All determinations of the relevancy of questions presented during a live hearing are subject to the discretion of the chairperson. The chairperson may at any time instruct the individual being asked a question to not answer and exclude the question as irrelevant.

Impermissible questions include:

- i. Questions concerning conversations with a confidential employee or otherwise privileged under federal, state or local law unless the party has waived their privilege over such information;
  - ii. Questions about records maintained by a physician, psychologist, or other recognized professional providing treatment to the party or witness unless the party or witness has waived their privilege of such records;
  - iii. Questions about the *complainant's* sexual predisposition (preferences) or sexual behaviors, except in circumstances where the question is posed to demonstrate that (1) someone other than the *respondent* committed the alleged behaviors or (2) the question concerns specific prior incidents between the parties and are offered to prove a pattern of *consent* within the context of the relationship; and
  - iv. Questions intended to harass or intimidate a party or witness.
- e. Closing Statement: Following the questioning of the parties and all witnesses, each party will have a final opportunity to present a closing statement summarizing their case.

## 7) DETERMINATION OF RESPONSIBILITY

At the conclusion of the live hearing, panel members will objectively evaluate all *relevant evidence* and weigh credibility of all parties and witnesses. Panelists will make their decision free of intimidation or external influence focusing only on what has been presented during the hearing and/or what is contained in the investigative report. Credibility assessments will be based on the consistency within and between statements and with other *relevant evidence* presented. A person's status as a *complainant*, *respondent*, or witness will not be used to influence the credibility assessment of their statements.

- a. Application of the Preponderance of the Evidence Standard: Panel deliberations will result in a *determination* as to whether a *preponderance of the evidence* substantiates the allegations. *Preponderance of the evidence* means that the evidence shows that it is more likely than not, or more than a 50% likelihood, that the behavior occurred, and that the behavior violated the policy. While the College aims for unanimous decisions by all panel members, a simple majority is all that is required. When the panel members return a split decision the chairperson will require the panel to provide a statement detailing on what basis

they were unable to reach a consensus. Parties will be provided a copy of this statement in their written determination along with the identities of the panel members who were not in the majority.

- b. Refusal to Answer Questions: The hearing panel may choose to place less, or no weight at all, on statements made by a party or witness who refuses to answer questions deemed relevant and otherwise permissible by the chairperson. However, the panel members must not base a *determination* as to whether the allegations are *substantiated* solely on the basis of a party or witness's refusal to answer questions.
- c. Issuance of a Written Determination: The AVP for Civil Rights/Title IX Coordinator will document the decision of the panel and issue a written *determination* simultaneously to both parties within ten (10) days after the live hearing. Written *determinations* will include the factual findings of the hearing panel members, a holding as to whether the *formal complaint* is *substantiated*, a rationale for the *determination*, and outline any sanctions or remedial actions resulting from the case.
- d. Decision Maker Assignments: In its sole discretion, the College may engage an individual outside the College to serve as a single decision maker instead of using a hearing panel. The College will always do this for cases involving members of the Office for Civil Rights and Title IX and for cases involving members of the president's cabinet. The College may also do this to minimize potential risks of litigation or when it is unable to seat an unbiased panel.

## 8) SANCTIONS AND REMEDIAL ACTIONS

The panel will determine or recommend sanctions, up to and including dismissal/termination for *respondents* in cases where the allegations are *substantiated*. The AVP for Civil Rights/Title IX Coordinator may also provide the *complainant* and any other parties impacted by the discrimination or harassment with additional remedies designed to restore or preserve equal access to the College's *educational program or activity*.

- a. Sanctioning Guidance: If the panel determines the allegations have been *substantiated* the AVP for Civil Rights/Title IX Coordinator will share additional information relevant to sanctioning decisions with the panel.
- b. Sanctioning Guidelines: In determining sanctions, panel members will be instructed to consider the following factors:
  - i. The nature and severity of the behavior, including whether the behavior involved a single incident or repeated acts;
  - ii. The impact of the behavior on the *complainant*, other individuals, and/or the CC community;
  - iii. The *respondent's* prior disciplinary history, including any previous cases which may have been resolved informally, or which have been resolved through other College policies and procedures;
  - iv. How the College has sanctioned similar cases in the past;

- v. Whether the *respondent* has accepted responsibility for harms caused and demonstrated a willingness to modify their behaviors and repair harms; and
  - vi. Any mitigating or aggravating circumstances which may impact the case.
- c. Examples of Student Sanctions: In cases in which the *respondent* is a *student* the hearing panel may impose any combination of sanctions outlined in the Student Community Standards and Conduct Procedures. This may include but is not limited to:
- i. Dismissal: Permanent exclusion from the College, its premises, and all of its activities.
  - ii. Suspension: Temporary exclusion from the College, its premises, and all of its activities. A suspended *student* is not guaranteed re-enrollment at the end of the specified period of time and the College may make re-enrollment conditional upon completion of additional sanctions.
  - iii. Disciplinary Probation: A formal notice that any additional findings that a *student* has violated any college policy will likely result in suspension or dismissal.
  - iv. Official Warning: A formal notice from the College that the *student* has engaged in behavior that is unacceptable at the College.
  - v. Persona-non-Grata: A restriction preventing a *student* from appearing at a specified event or location that is on campus or part of a College activity.
  - vi. Housing Relocation/Restriction: A requirement that a *student* living on campus be relocated to a specified location and/or be restricted from accessing specified housing locations. These restrictions may be subject to change based on the residence of the *complainant* or other parties.
  - vii. Educational Sanctions: Required attendance at an event, or participation in a program or meeting which is designed to provide education and modify behavior. This may also include any independent research or related writing assignment.
  - viii. Professional Assessment: Completion of a formal assessment with a counselor or other appropriate professional. The College may not require *students* to comply with any recommendations resulting from the assessment but may implement additional restrictions should a *student* choose not to follow through on recommended actions.
  - ix. Written Reflection: Completion of a written assignment which requires a *student* to actively reflect on their behaviors in a meaningful way.
- d. Sanctioning of Tenured Faculty: Per the Faculty Handbook (Part Two Section XIII.D), termination of a tenured faculty member must be implemented by a vote of the Board of Trustees. If the panel recommends termination of a tenured faculty member, then such recommendation will be presented by the Dean of the Faculty to the Board of Trustees for review, following the procedure described in Section XIII.D.3. If a recommendation for dismissal is not upheld by the Board of

Trustees, then the Dean of the Faculty, in coordination with the AVP for Civil Rights/Title IX Coordinator will implement other appropriate sanctions.

- e. Examples of *Employee* Sanctions: In cases in which the *respondent* is an *employee* of the College the hearing panel may impose any combination of sanctions outlined in the Faculty Handbook, or Staff Handbook respectively. The AVP for Civil Rights/Title IX Coordinator may work in collaboration with supervisors, the Dean of the Faculty, and/or the Vice President of People and Workplace Culture to implement these sanctions. These may include but are not limited to:
    - i. Termination: Permanent removal from employment with the College and exclusion from College premises, and its activities.
    - ii. Suspension/Administrative Leave: Temporary removal of workplace duties and exclusion from College premises, and its activities. The College may make re-instatement contingent upon completion of additional sanctions.
    - iii. Alteration of Work Responsibilities: A modification in an individual's responsibilities within the College which may also result in a change to job title and/or reduction in pay.
    - iv. Written Warning: A documented note in an *employee's* file showing that the *employee* has engaged in behavior which the College deems to be unacceptable.
    - v. Performance Improvement Plan (PIP): A documented action plan for improvement in the workplace containing specific goals and target dates which an *employee* must satisfy or face additional disciplinary action.
    - vi. Mandatory Training and/or Development: Mandated attendance at an event, or participation in a program or meeting which is designed to provide education and modify behavior.
  - f. Remedial Measures: The College will take any measures that are necessary to remedy the effects of any discrimination, harassment, sexual misconduct, or retaliation to the *complainant*. This includes in cases where a *respondent* is a visitor or other third party, over whom the College has limited, if any, authority.
- 9) **WITHDRAW/RESIGNATION DURING A FORMAL RESOLUTION PROCESS**  
If a *respondent* chooses to voluntarily withdraw from the College or resign from their position pending the resolution of a *formal resolution process* a notation will be included on their *student* or *employee* record. Whether the *respondent* is eligible for re-admission or re-hire will depend upon whether the *respondent* continues to participate in the formal process as well as if the allegations are *substantiated*.

If a *complainant* chooses to voluntarily withdraw from the College or resign from their position pending the resolution of a formal process, the College may choose to continue or terminate the process. This decision will depend upon the *complainant's* willingness to continue their participation and the College's ability to effectively investigate the allegations absent a *complainant's* participation. A *complainant's* decision to withdraw or

otherwise leave the College pending an investigation will not impact their ability to return to the College in the future.

## 10) FORMAL RESOLUTION APPEAL PROCEDURES

Following a formal investigation and live hearing, both parties have the right to file an appeal of the hearing panel's decision. Appeals are not a re-hearing of the facts of the case and must be limited in scope to the following bases:

- New and Relevant Evidence: The party has discovered new and *relevant evidence* that was not reasonably available at the time the decision was made that could alter the outcome. It is not sufficient that a party knew about and had access to the *relevant evidence* during the investigation but failed to provide it because they did not recognize its importance at the time.
  - Failure of Investigative or Decision-Making Process: Allegations that the AVP for Civil Rights/Title IX Coordinator, an investigator, or decision-making panel deviated from the policy in a way that substantially altered the outcome of the case.
  - Bias in Investigative or Decision-Making Process: Evidence that the AVP for Civil Rights/Title IX Coordinator, an investigator, or panel member was biased or had a conflict of interest, and such bias or conflict of interest affected the outcome of the case. If a party was aware of a potential conflict of interest or bias of an investigator or hearing panel member and failed to challenge their assignment to the case earlier in the process the appeal may be dismissed as groundless.
- a. Appeal Timeframe: Appeal requests must be submitted in writing to the Office for Civil Rights and Title IX within five (5) business days of the delivery of the written determination (not including the date of delivery). The appeal request must include the basis for the appeal and all evidence in support of the request.
  - b. Suspension of Sanctions: All sanctions issued by the hearing panel will be suspended pending the outcome of the appeal. Sanctions will take effect upon the expiration of the deadline for an appeal or the issuance of the final decision by the *appellate decision-maker*. For financial considerations, all suspensions and expulsions of *students* will be backdated to have taken effect on the date that the notice of final *determination* was issued.
  - c. Decision-Makers on Appeals: Appeals will be decided by the Dean of the College/Chief Operating Officer or the Chief of Staff.
    - i. Appeals Involving Conflicts of Interests: If both the Dean of the College/Chief Operating Officer and the Executive Vice President/Chief of Staff have a conflict of interest, such as when one or more of the parties in the case is a member of the President's Cabinet or a staff member in the Office for Civil Rights and Title IX, the decision-maker on appeal will be outsourced to an unaffiliated third-party. The unaffiliated third-party will also be unaffiliated with any investigator/decision-maker previously assigned to the case.

- ii. Dismissing Groundless Appeals: The *appellate decision-maker* may, after reviewing the appeal, deny the appeal without further process if the appeal is groundless—i.e., the appeal is not based on the grounds specified above. In this case, both parties will be notified of the decision, and the party who did not submit the appeal will be provided a copy of the appeal, but they will not need to provide any response.
  - iii. Appeals Involving Faculty: Appeals of findings against a faculty member will be decided by the President.
- d. Non-Appealing Party's Response: If the appeal merits further review, the non-appealing party will receive a copy of the appeal and may respond within five (5) business days.
- e. Reviewing the Appeal: The *appellate decision-maker* will review the appeal materials submitted by both parties. The *appellate decision-maker* may also choose to interview the investigator(s) and/or any other person that participated in the investigation and decision-making process but is not obligated to do so. Parties are encouraged to submit all information they believe the *appellate decision-maker* should consider in their written statements.
- f. Reaching a Final Decision: The *appellate decision-maker* will make a final decision on the appeal.
  - i. The original decision may be upheld, reversed, or modified (which includes the possibility that different or additional sanctions may be imposed). Modification of sanctions can only place a greater burden on the *respondent* if the appeal was filed by the *complainant*; or
  - ii. The case may be referred to the same or different investigator(s) for additional investigation and a new hearing.
- g. Final Decision on Appeal: The College will send a written notice to both parties of the decision on appeal. No further appeal process is available.

## 11) POST-DECISION FOLLOW-UP

- a. Monitoring: If, as a result of the *formal resolution process*, the allegations are *substantiated*, then the Office for Civil Rights and Title IX will periodically follow-up with both parties, as necessary—but at least through the applicable sanction period—to ensure that the prohibited conduct has ceased, no acts of retaliation have occurred, support is provided as needed, and to otherwise address any issue that may arise.
- b. Continuing Effects: Even after a sanction is served, or when the allegations are *unsubstantiated*, a *complainant* may feel continuing effects of the incident. The College retains the discretion to address continuing effects by instituting reasonable *supportive measures*.

# DEFINITIONS

1. Accommodation: A reasonable *accommodation* is any modification or adjustment to a job, academic endeavor, or the work/school environment that will enable an applicant, *student*, or *employee* with a *disability* to equitably participate in the application process, in an *educational program or activity*, or to perform essential job functions. Reasonable *accommodation* also includes modifications or adjustments to assure that an individual with a *disability* has rights and privileges in education and employment equal to those of *employees* without disabilities. For a full definition of reasonable *accommodation*, please see the Americans with Disabilities Act, as recently amended, and Section 504 of the 1973 Rehabilitation Act.
2. Advisor of Choice: An individual, who may or may not be an attorney, whom the *complainant* or *respondent* selects to accompany them to any meetings or proceedings outlined in this policy. An *advisor of choice* may not serve as a witness in any *formal resolution process*, and parties involved in the same case may not serve as advisors to one another. The College will not otherwise restrict a party's right to an advisor of their choosing; however, the College does establish limitations on the role of an advisor and a party is limited to being accompanied by only one advisor in any meeting or proceeding. The role of an advisor is to provide advice and support to the parties directly and may not actively participate in any *formal* or *informal resolution process*. Advisors may not make statements on behalf of the party they are supporting either verbally or in writing. Repeated attempts by an advisor to actively participate, disrupt, or delay a proceeding may result in the advisor being removed from the process and the party instructed to select a new *advisor of choice* before proceeding. For all *formal resolution processes* that move to a live hearing, if a party does not have access to an advisor who is trained to conduct cross examination or otherwise propose appropriate questions to be asked of witnesses, the College will provide such a trained advisor to the parties free of charge. In these situations, a party may also have a *support person* present at the live hearing. This *support person* is prohibited from participating in the hearing in any way, including proposing questions.
3. Adverse Impact: A substantially different rate of selection in admission, hiring, promotion, or other employment or academic decisions which works to the disadvantage of members of *protected class*, even if the practice is perceived as neutral.
4. Applicant – Any person who has submitted an application for employment with the College for a position that has not been filled, or who has applied to become a student at the College and has not accepted or been denied admissions.
5. Appellate Decisionmaker: The individual who will review and determine appeals for *formal resolution processes*. Appeals will be decided by the Dean of the College/Chief Operating Officer or the Executive Vice President/Chief of Staff. Appeals effecting a faculty member will be decided by the President.
6. CC Community Member: Any person who has a formal relationship with Colorado College. This includes all *applicants, students, employees, volunteers, third-party contractors*, or formally invited guests of the College.

7. CC-Sponsored Event: Any academic, educational, extracurricular, or athletic event or program sponsored by the college, regardless of whether that event occurred on or off campus. This also refers to any event sponsored or hosted by any *student* organization formally registered and recognized by the College.
8. Complainant: An individual who has reportedly been subjected to one or more incidents of discrimination, harassment, sexual harassment, or retaliation.
9. Confidential Resource: Colorado College offices or employees who are not required to disclose or *report* information to the Office for Civil Rights and Title IX. In most cases, *confidential resources* will not testify in a criminal or civil proceeding about their communications with a party without the party's consent. However, there may be circumstances under which a *confidential resource* is required by law to break confidentiality, such as when there is an imminent risk of serious harm, or a party is under the age of 18.
10. Consent: For the purposes of this policy, the College defines *consent* as the clear, unambiguous, and voluntary agreement to engage in a specific sexual activity. *Consent* may be demonstrated through mutually understood words or actions. A person who initiates sexual activity or moves an encounter from one sexual activity to another is responsible for obtaining the *consent* of the other before proceeding. *Consent* cannot be obtained through use of *force* or *coercion* or when a party is *incapacitated*, as defined below. When evaluating whether *consent* was present in any given circumstance the College will look to whether a reasonable person who is unimpaired by alcohol or drugs would have been able to determine whether *consent* was present. *Consent* is an affirmative process and silence, passivity, or lack of resistance does not constitute *consent*. For this reason, relying on non-verbal communication alone may not be sufficient to determine if *consent* is present in all circumstances.
  - *Consent* may not be inferred from any existing or previous dating or sexual relationship. Even in the context of an on-going romantic or marital relationship, mutual *consent* must be obtained every time sexual activity occurs. In cases involving existing or previous sexual relationships, the nature and manner of prior communications between the parties about *consent* within the context of the relationship may have a bearing on evaluating whether *consent* was present.
  - *Consent* to engage in a particular sexual act at one point may not be used to establish the presence of *consent* for the same sexual act at a separate point in time.
  - *Consent* to engage in a particular sexual act may not be used to establish the presence of *consent* for a different sexual act within the same sexual encounter.
  - *Consent* can be withdrawn by any party at any time. When an individual wishes to withdraw *consent* for a previously agreed to act, they must communicate through clear words or actions a decision to end the sexual activity. Once *consent* is withdrawn, the sexual activity must end immediately.
  - Given the inherent power differential in the context of faculty-*student*, staff-*student*, or supervisor-supervisee relationships, the College prohibits all such consensual relationships. The only exception granted is for recently graduated

*employees and students* when a romantic or sexual relationship pre-dates the *employee's* hire by the College. For more information, please review the College's Student, Staff, and Faculty Consensual Relationship Policy.

11. Coercion: The use of an unreasonable amount of pressure designed to overcome the will of another. *Coercion* requires more than a simple effort to entice or attract another person into engaging in sexual activity; however, when a person communicates a clear decision to not engage in or stop sexual activity, continued pressure may become coercive. The use of explicit or implicit threats to cause academic, employment, reputational, or financial damage to another may also constitute *coercion*. It is not a defense that a party could not actually enact any threats, provided the other party reasonably believed them to be valid in the moment. In evaluating the presence of *coercion*, the College will look to (1) the frequency, intensity, and duration of the pressure; (2) the degree of isolation of the person being pressured; and (3) any actual or perceived power differentials between the parties in the moment and within the context of their respective roles within the College.
12. Determination: A formal finding by the College whether there is sufficient evidence to *substantiate* the allegations presented in a *formal complaint*. The College will only issue a *determination* following a completed *formal resolution process*.
13. Disability: A person has a *disability* if they have a physical or mental condition that substantially limits a major life activity (such as walking, talking, seeing, hearing, learning, or operation of a major bodily function, such as brain, musculoskeletal, respiratory, circulatory, or endocrine function). A medical condition does not need to be long-term, permanent, or severe to be substantially limiting. If symptoms come and go, what matters is how limiting the symptoms are when they are active.
14. Disparate impact: An outcome of an *adverse impact*, occurring when a facially neutral policy or practice results in a disproportionate effect to a particular *protected class*.
15. Disparate treatment: Intentional and deliberate acts performed by an institutional representative that is discriminatory, unfair, prejudicial, or otherwise applies a different standard to someone because of their protected status.
16. Educational program or activity: An *educational program or activity* is any location, event, or circumstance over which the College exercises substantial control over both the *complainant* and *respondent* and the context in which unwanted behaviors occurred. This includes any building which the College owns as well as any building owned or controlled by any student organization officially recognized by the College.
17. Employee: An *employee* is anyone who is employed by the college. This includes faculty, staff, and student workers as well as temporary employees or part-time employees.
18. External community member: A person, persons, or entity that has no employment, contractual, or educational ties to the College who is attending, supporting, or has been invited onto campus grounds for a specific purpose or activity and is expected to adhere to institutional expectations, protocols, and policy.
19. Force: Any use of, or threat to use, any physical violence to achieve the compliance of another. Examples of physical violence include pushing, hitting, punching, slapping, kicking, restraining, strangling, and brandishing or using any weapon. Threats of physical

violence may be made implicitly or explicitly but must be of a nature that a reasonable person would be fearful of physical harm.

20. Formal complaint: A document signed and filed with the College by a *complainant* or signed by the AVP for Civil Rights/Title IX Coordinator on behalf of a *complainant*, requesting the implementation of a *formal* or *informal resolution process*.
21. Formal resolution process: A formal process implemented by the Office for Civil Rights and Title IX following the submission of a *formal complaint* which consists of an investigation and resolution through a live hearing, as described in the “*formal resolution process*” section of this policy. Formal resolution results in a *determination* by the College whether the allegations are *substantiated*. If an allegation is *substantiated* through the process, disciplinary action will be implemented by the College.
22. Good Faith: Statements or *reports* which are made with a sincere intention to be open, honest, and truthful are considered to be made in *good faith*. The College recognizes that statements are always influenced by the perspectives and biases of the individual making them, therefore, even statements found to be less credible will be assumed to be made in *good faith* absent evidence of an intent to deceive.
23. Incapacitation: A person who lacks the ability to make informed, deliberate choices about whether to engage in sexual activity is considered incapacitated for the purposes of evaluating the presence of *consent* under this policy. A person may be incapacitated due to mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity was requested, suggested, or initiated. *Incapacitation* may result from the consumption of alcohol or other drugs or due to a temporary or permanent *disability*.
  - When alcohol or other drugs are involved, *incapacitation* is more than drunkenness or intoxication and requires a level of impairment significant enough to prevent an individual from making informed and deliberate choices. In determining whether someone has become incapacitated due to the consumption of alcohol or other drugs, the College will look to common signs of *incapacitation* such as: the amount of alcohol or drugs consumed; slurred or incomprehensible speech; instability standing or walking; combativeness or emotional volatility; vomiting; unconsciousness; or incontinence.
  - Someone who is incapacitated may not be able to understand or reasonably respond to the following questions: Do you know where you are? Do you know how you got here? Do you know what is happening? Do you know who you are here with?
  - The College urges caution when engaging in any type of sexual activity when one or both parties have engaged in alcohol or drug usage. The usage of alcohol or drugs may impair an individual’s ability to determine whether *consent* is present. When there is any doubt about an individual’s level of *incapacitation*, the safest thing to do is to refrain from engaging in sexual activity.
  - Being impaired by alcohol or drugs is never a defense for a failure to obtain or properly evaluate the presence of *consent*.
24. Informal Resolution Process: An informal process implemented by the Office for Civil Rights and Title IX following the submission of a *formal complaint* which may be

pursued if the involved parties are interested and agree to participate. The *informal resolution process* is voluntary and may be stopped at any time by any involved party. The *informal resolution process* will never result in a *determination* by the College whether the allegations are *substantiated*, and any outcomes must be agreed to by both parties in writing. In circumstances where the AVP for Civil Rights/Title IX Coordinator determines that an informal resolution would be insufficient to end or prevent further harm, the College may deny the parties' request for an informal resolution and require a *formal resolution process* be pursued.

25. *Mandatory Reporters*: All *employees* of the College, including *student employees*, except for confidential resources, as defined above, are *mandatory reporters*. Being a *mandatory reporter* means that when *employees* become aware of or observe incidents of discrimination, harassment, or sexual harassment impacting any *CC Community Member*, they are required to share that information with the Office for Civil Rights and Title IX. Examples of *Mandatory Reporters* include but are not limited to faculty, extracurricular advisors, coaches, full or part-time staff, paraprofessionals, RAs, and Campus Safety Officers. Contractors, *third party vendors*, and *volunteers* of the College are also encouraged to comply with reporting obligations.
26. *Preponderance of the Evidence*: The standard of evidence necessary to *substantiate* an allegation in the *formal resolution process*. This requires that the college show that it is more likely than not, or more than a 50% likelihood, that the alleged behavior occurred and violated this policy.
27. *Privacy*: An ethical duty and obligation to refrain from sharing sensitive, restricted, or unnecessary information (written, verbal, or otherwise) with parties that do not have a valid or justifiable reason, per the discretion of the Office of Civil Rights, to have access to such information pertaining to any stage of the Civil Rights procedural protocol, except with the express *consent* of the other party or to the extent permissible by law.
28. *Protected classes*: Individual characteristics and aspects of an individual's identity that are protected by CC policy and/or various federal, state, and local laws. The College also recognizes that the overlap and intersection of identities can result in individuals within the same *protected class* experiencing situations differently, therefore the College recognizes that individuals can experience discrimination and harassment based on the intersectionality of their identities. The list of *protected classes* covered under this policy includes: race, creed, color, caste, religion, national origin, ancestry, sex (including pregnancy, gender identity or gender expression, perceived gender, sexual preference, and sexual orientation), marital status, *disability*, veteran status, age, genetic information, or any other applicable status protected by federal, state, or local law.
29. *Relevant evidence*: Evidence which is determined by a reasonable person to demonstrate that a fact is more or less likely to be true, and/or that the fact is useful in determining whether an alleged violation of this policy occurred. Determinations of relevance are made by the investigator; however, parties may appeal a determination that a piece of evidence is irrelevant to the AVP for Civil Rights/Title IX Coordinator, who has the final say in the matter.

30. *Relevant witnesses*: Witnesses must be able to share specific factual information directly related to the allegations or will be dismissed from the investigation due to a lack of relevance. Witnesses who are presented to exclusively speak in support of one party's character or to discredit the character of the other party will not be interviewed or allowed to participate in the live hearing. Outcry witnesses, or individuals who a party has shared information about an alleged incident with between the time of the alleged incident and the initiation of an investigation are considered relevant for the purposes of establishing credibility.
31. *Report*: An initial communication (verbal, written, electronic, or otherwise) that alerts the Office of Civil Rights and Title IX to a perceived incident of prohibited behavior or institutional inequity.
32. *Respondent*: The person reported to have engaged in an act(s) that may constitute a violation of this Policy.
33. *Student*: Any person who has accepted an offer of admission to Colorado College, and/or who is taking courses at the College, either full-time or part-time. Individuals who have taken a leave of absence or are otherwise not enrolled in courses but have not formally withdrawn from the College after being enrolled at a previous point are also considered *students*.
34. *Substantiated/Unsubstantiated*: When a hearing panel determines that a *preponderance of the evidence* exists to find that an alleged violation of this policy occurred the allegation is deemed to be *substantiated*. When a hearing panel determines that the College has not satisfied the *preponderance of the evidence* standard with respect to an alleged violation, then the allegation is deemed to be *unsubstantiated*. A *determination* that an allegation is *unsubstantiated* is not a *determination* that an alleged behavior did not occur but is a finding that insufficient evidence was presented to draw such a conclusion.
35. *Sufficiency Review*: A final review of an investigation *report* undertaken by the AVP for Civil Rights/Title IX Coordinator to ensure the *report* was completed in a manner consistent with the requirements outlined in this policy and any applicable laws.
36. *Supportive Measures*: *Supportive measures* are non-disciplinary remedies or resources necessary and appropriate to prevent further discrimination, harassment, sexual misconduct, and retaliation and/or to protect an individual's safety, physical and mental wellbeing, and rights. The College may offer *supportive measures* to all participants involved in any process outlined in this Policy. Individuals are encouraged to work with the Office for Civil Rights and Title IX and/or the Campus Advocate to determine what *supportive measures* are appropriate for their circumstances, however, the College has sole discretion on whether and what type of *supportive measures* to implement.
37. *Support person*: An individual whom the *complainant* or *respondent* selects to accompany them to any meetings or proceedings outlined in this policy for emotional or mental health support. *Support persons* may accompany parties in addition to an *Advisor of Choice*, but their participation is limited even more than an *Advisor of Choice* in that they may take no part in any part of the process at all.
38. *Third-Party Contractor*: An individual or entity that is employed by an organization other than Colorado College but doing work on behalf of the College. Examples of *third-party*

*contractors* include, Sodexo cleaning staff, Bon Appetit food service staff, and construction workers working on CC campus projects.

39. *Threat Assessment Team*: A threat assessment team is a panel convened at the start of a *formal resolution process* to determine whether interim action is necessary pending the outcome of the process to protect the safety and wellbeing of the individuals involved and/or the campus community. Such action includes placing an *employee* on administrative leave or issuing an interim suspension for a *student*. The *threat assessment team* will utilize the details contained in the *formal complaint* as well as a response provided by the *respondent* to determine what, if any, interim action is necessary. The threat assessment team will be made up of representatives from the following offices:
- The Office for Civil Rights and Title IX
  - The Counseling Center
  - Campus Safety
  - Depending on whether the *respondent* is a *student*, faculty, or staff member the final member will be from either:
    - The Dean of Student's Office
    - The Dean of Faculty's Office
    - Human Resources
40. *Volunteer*: An individual or entity that has no employment, contractual, or educational ties to the institution who is donating their time to the college or another organization taking place on college grounds that is expected to adhere to institutional expectations, protocols, and policy.