

CAMPUS SAFETY AND SECURITY

JULY 1, 2023

NORTH IOWA AREA COMMUNITY COLLEGE

Pursuant to the Student Right to Know and Campus Security Act, North Iowa Area Community College monitors criminal activity and publishes this report and maintains a three-year statistical history. The College distributes a copy of this report to each current student and employee through the portal. NIACC notifies prospective students and employees of its availability and provides a copy upon request.

Security and Access to Campus Facilities

Normal access to campus facilities is Monday through Friday, 7 a.m. to 10:30 p.m. Facilities may be open by reservation and/or prearrangement at other times. The campus is closed during other times and on holidays.

Facilities staff is on duty Monday through Friday, 5:00 a.m. to midnight, and Saturday and Sunday, 7:00 a.m. to 11:00 p.m. They are directed to report any unusual happenings immediately to their supervisor and/or the police by dialing 911. Campus and college housing are regularly checked by the Mason City Police Dept.

Campus Community Education Regarding Security Procedures

NIACC encourages students and employees to be responsible for their safety and the safety of others. New employees are informed about security policies and procedures at the annual New Employee Orientation. At each College Orientation, students are given information regarding security policies and procedures on College property. In addition, students living in College housing are given more specific information on security procedures.

Substance Abuse Prevention

NIACC recognizes drug abuse as a potential health, safety, and security problem. Students needing help in dealing with such problems are encouraged to seek assistance from our College Personal Wellness Coordinator available in the Student Development Office located in the Administration Building, Room 104, and to utilize the resources made available through the

campus and the community. For pertinent information regarding substance abuse, the following website reflects extensive research by The Office of National Drug Control Policy: www.whitehousedrugpolicy.gov.

The legal drinking age in the state of Iowa is 21. The unlawful manufacture, distribution, dispensation, possession, or use of illicit drugs and alcohol on College property or as a part of any college-sponsored activity is prohibited. Violations of this policy will result in disciplinary action, up to and including expulsion, and may have legal consequences. Note: When College-sponsored events take place in states or countries where more lenient laws exist, the legal age shall be defined as 21. College sponsors of off-campus events have the right to develop and enforce more stringent rules (such as no alcohol).

Activities to promote responsible decision making concerning the use of alcohol by students are organized by the NIACC Student Government.

Sexual Assault

Members of the counseling staff understand the personal and potentially traumatic nature of these incidents and are available to provide students with support, information, and guidance in responding to incidents involving sexual assault.

What to do if you are sexually assaulted

There are a variety of options available to students who are sexually assaulted. Listed below are several options students may choose when attempting to resolve some of the issues associated with a sexual assault. An individual may select all of these options, or he/she may select none of them. One important component of the recovery after a sexual assault is talking about the incident, and each person must choose the avenue that is best for him/her.

1. Contact the police immediately. Dial 911. Even if a person is unsure whether or not he/she wishes to file criminal charges, reporting the incident to the police helps maintain available options by preserving important evidence. An individual should not wash, douche, or shower following an



assault because it could destroy evidence. Members of the counseling staff are available to assist students throughout this process.

2. Contact a trained sexual assault advocate. Advocates are available through the Crisis Intervention Service and may be contacted by the police, emergency room personnel, or directly through their answering service at 641-424-9071 or 1-800-479-9071. Advocates are available 24 hours each day, and may provide valuable support and information.
3. Contact Prairie Ridge Integrated Behavioral Healthcare. Professional counselors are an invaluable resource in surviving a sexual assault. Counselors can provide immediate as well as long-term support and may be contacted at 641-424-2391.
4. Report the incident to the Vice President of Student Development and Success. He/she can provide information about on-campus counseling services and campus disciplinary systems. The NIACC campus discipline system will be utilized for incidents where the parties involved are NIACC students.

Sexual assault prevention programs are sponsored annually on the NIACC campus with the goal of promoting safe, healthy, nonviolent relationships. Educational information is presented at new student orientation, during residence halls programs, and through brochures available throughout campus.

Sexual Misconduct and Non-Discrimination Policy

Statement of Institutional Values

Sexual misconduct of any form is a violation of a person's rights, dignity and integrity. An act of sexual misconduct represents a fundamental failure by a community member to recognize and respect the intrinsic worth and dignity of another. Acts of sexual misconduct are harmful and illegal and will not be tolerated at NIACC. Such acts corrupt the integrity of the educational process, are contrary to the mission and values of the NIACC community and are against College policy.

All members of the NIACC community should be free from sexual misconduct in the classroom; the social, recreational and residential environment; and the workplace. The College seeks to foster a climate free from sexual misconduct through a coordinated education and awareness program, the promulgation of clear and effective policies, as well as investigative and grievance

procedures that are prompt, equitable, and accessible to all. In response to any reported sexual misconduct, the College will take all appropriate steps to eliminate the misconduct, prevent its recurrence and address its effects.

In order to foster a climate of respect for oneself and for one another and provide for the safety and security of our community, the College expects all community members to take action to prevent acts of sexual misconduct. Creating a safe campus environment is the responsibility of all members of the College community, both individually and collectively.

In order to foster a climate that encourages reporting of sexual misconduct, the College will actively educate the community, respond to all allegations promptly, will provide interim measures to address safety and emotional well-being, and will act in a manner that recognizes the inherent dignity of the individuals involved.

In order to achieve equitable results, the College will carefully review and/or investigate all reports with an earnest intent to understand the perspective and experiences of each individual involved, and provide for fair and impartial evaluation and resolution.

Purpose of Policy

The purpose of this policy is to provide the NIACC community with a clear articulated set of behavioral standards, common understanding of definitions and key concepts, and descriptions of prohibited conduct. This policy applies to all community members, including students, faculty, and staff as well as outside vendors, suppliers and guests. It is intended to protect and guide students, faculty and staff who have been affected by sexual misconduct, whether as a Complainant, a Respondent, or a third party.

When used in this policy, a Complainant refers to the individual who believes to have been the subject of sexual misconduct. A Respondent refers to the individual who has been accused of sexual misconduct. A third party refers to any other participant in the process, including a witness to the incident or an individual who makes a report on behalf of someone else. A report refers to any incident or concern regarding sexual misconduct that is reported to the College. A complaint is an allegation of sexual misconduct filed against a faculty or staff member or student that initiates the appropriate investigatory process.

In addition to defining sexual harassment and the forms of sexual misconduct that violate the standards of our community, this policy will also:



- Identify resources and support for all members of the NIACC community.
- Identify Title IX Coordinators.
- Provide information about where a College community member can obtain support or access resources in a confidential manner.
- Provide information about how a College community member can make a report.
- Provide information about how a report against a College community member will be investigated, evaluated and resolved.

Scope

As stated above, this policy applies to all members of the NIACC community, including students, employees, visitors, and independent contractors. When used in this policy, employee generally refers to both staff and faculty members. Vendors, independent contractors, visitors, and others who conduct business with the College or on College property are also expected to comply with this policy.

All College community members are responsible for their actions and behavior, whether the conduct in question occurs on campus or in another location. Members of the NIACC community have a responsibility to adhere to College policies and local, state, and federal law.

This policy covers all prohibited actions that occur (a) on College owned, leased or operated premises; (b) at College-sponsored activities, and (c) while doing business on behalf of the College.

Any individual may make a report alleging a violation of this policy. The College will provide resource options and respond promptly and equitably to all allegations of sexual misconduct.

The College will engage in a Title IX review throughout which it is committed to maintaining fairness for all parties and to balancing the needs and interests of the individuals involved with the safety of the community as a whole.

Definitions

- *Advisor* means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- *College* is North Iowa Area Community College

- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Complaint (formal)* means a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that the recipient investigate the allegation.
- *Confidential Resource* means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- *Day* means a business day when NIACC is in normal operation.
- *Education program or activity* means locations, events, or circumstances where NIACC exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by the NIACC.
- *Final Determination*: A conclusion by the standard of evidence that the alleged conduct occurred and whether it did or did not violate policy.
- *Finding*: A conclusion by the standard of evidence that the conduct did or did not occur as alleged.
- *Formal Grievance Process* means a method of formal resolution designated by the recipient to address conduct that falls within the policies included below, and which complies with the requirements of 34 CFR Part 106.45.
- *Hearing Decision-maker* refers to those who have decision-making and sanctioning authority within NIACC's Formal Grievance process.
- *Hearing Officer* refers to the outside counsel retained to preside over formal Title IX hearings, rendering decisions on admissible evidence and questioning.
- *Investigator* means the person or persons charged by a NIACC with gathering facts about



an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.

- *Mandated Reporter* means an employee of the College who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.
- *Notice* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- *Parties* include the Complainant(s) and Respondent (s), collectively.
- *Remedies* are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the Recipient's educational program.
- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Resolution* means the result of an informal or Formal Grievance Process.
- *Sanction* means a consequence imposed by the College on a Respondent who is found to have violated this policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence.
- *Title IX Coordinator* is at least one official designated by the College to ensure compliance with Title IX and the College's Title IX program.

Coordination with Non-Discrimination Policy

The College recognizes that harassment related to an individual's sex, sexual orientation, gender identity, gender expression, race, age, disability, genetic information, religion, national origin, veteran status or any other legally protected class can occur. Targeting individuals on the basis of these characteristics is also a

violation of the policies of North Iowa Community College. Under these circumstances, the College will coordinate the investigation and resolution efforts to address harassment related to the targeted individual's sex, sexual orientation, gender identity or gender expression, race, color, ethnicity, national origin, religion, age, marital status or disability.

Notice of Non-Discrimination

The College is committed to establishing and maintaining an environment free of all forms of harassment and discrimination for all College community members. The College does not discriminate on the basis of race, color, creed, national origin, age, marital status, sex (including pregnancy), sexual orientation, gender identity or expression, physical or mental disability, religion, veteran status, genetic information, or any other protected class.

The College does not discriminate on the basis of sex or any other legally protected class in its educational, extracurricular, athletic, or other programs or in the context of employment. Sexual misconduct, including sexual harassment as defined in this policy, is a form of sex discrimination that unjustly deprives a person of equal treatment. It is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides that:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

This policy prohibits sexual misconduct against all NIACC community members of any gender or sexual orientation. This policy also prohibits gender-based harassment that does not involve conduct of a sexual nature.

College Statement on Privacy

The College is committed to maintaining the privacy of all individuals involved in the report of sexual misconduct when possible. In any Title IX review of an allegation of sexual misconduct, every effort will be made to protect the privacy and interests of the individuals involved in a manner consistent with the need for a thorough investigation of the allegation. Such an investigation is essential to protecting the safety of the Complainant, the Respondent, and the broader campus community and to maintaining an environment free from sexual discrimination.



At all times, the privacy of the parties will be respected and safeguarded. Information related to a report of misconduct will be shared only with those College employees who “need to know” in order to assist in the investigation and/or resolution of the complaint. All College employees, who are involved in the Title IX review process, have received specific training regarding the safeguarding of private information. Students or employees wishing to obtain confidential assistance through on-campus or off-campus resources, without making a report to the College, may do so by speaking with professionals who are obligated by law to maintain confidentiality. These professionals are identified in the Resources section of this position. As a reminder, students may seek confidential assistance on campus through the Counseling Office. Employees may seek confidential assistance through the Employee Assistance Program. Community resources include Crisis Intervention, Prairie Ridge Integrated Healthcare, Parents United of North Central Iowa, and the Sexual Assault Center.

When the College has received a report of sexual misconduct, but the Complainant requests that his/her identity remain confidential or that the College not pursue an investigation, the College will balance this request with its responsibility to provide a safe and non-discriminatory environment for all College community members. The College will take all reasonable steps to investigate and respond to the Complainant consistent with the request for confidentiality or request not to pursue an investigation. At all times, the College will seek to respect the request of the Complainant, and where it cannot do so, the College will consult with the Complainant and keep him/her informed about the chosen course of action.

If a report of misconduct discloses an immediate threat to the College campus community, the College may issue a timely notice of the conduct to the community to protect the health or safety of the broader campus community. This notice will not contain any biographical or other identifying information. Immediately threatening circumstances include, but are not limited to, recently reported incidents of sexual misconduct that include the use of force, a weapon, or other circumstances that represent a serious and ongoing threat to College students, faculty, administrators, staff, or visitors. All resolution proceedings are conducted in compliance with the requirements of FERPA, the Clery Act, Title IX, and College policy. No information shall be released from such proceedings except as required or permitted by law or College policy.

Prohibited Conduct and Definitions

The College prohibits sexual misconduct. Sexual misconduct is a broad term that includes but is not limited to sexual harassment, sexual violence, sexual exploitation, stalking, cyber-stalking, hazing, bullying and cyber-bullying, aiding or facilitating the commission of a violation, and retaliation.

NIACC prohibits supervisors and managers from dating or having any amorous or sexual relationship (consensual or otherwise) with a subordinate, including student employees. NIACC reserves the right to take whatever action is appropriate to protect the College’s interests in the event of a violation of this policy (including reassignment or dismissal of one or more employees involved).

Consistent with the values of an educational and employment environment free from harassment based on sex, the College also prohibits harassment based on an individual’s race, color, creed, national origin, age, marital status, sexual orientation, gender identity or expression, physical or mental disability, religion, veteran status, genetic information or any other legally protected class, which may include acts of verbal, nonverbal, or physical aggression, intimidation or hostility based on stereotyping even if those acts do not involve conduct of a sexual nature.

Definition of Sexual Harassment

Sexual harassment is any unwelcome sexual advance, request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature when:

- (1.) Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual’s employment, evaluation of academic work or participation in social or extracurricular activities.
- (2.) Submission to or reject of such conduct by an individual is used as the basis for decisions affecting the individual; or
- (3.) Such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance by creating an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic or social environment. The effect will be evaluated based on the perspective of a reasonable person in the position of a Complainant.

Forms of Harassment

Harassment is prohibited. In some cases, harassment is obvious and may involve an overt action, a threat or reprisal. In other stances, harassment is subtle and indirect, with a coercive aspect that is unstated.



Harassment can take many forms:

- It can occur between equals (student-to-student, faculty member-to- faculty member, visitor-to-staff) or between persons of unequal power status (i.e., supervisor-to-subordinate, faculty member-to-student, coach-to-student-athlete, student leader-to-first year student).
- It can be committed by an individual or may be a result of the collective actions of an organization or group.
- It can be committed against an individual, an organization or a group.
- It can be committed by an acquaintance, a stranger, or someone with whom the Complainant has a personal, intimate or sexual relationship.
- It can occur by an individual of any sex, gender identity, gender expression or sexual orientation.
- It does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents.

Examples of behavior that might be considered misconduct include, but are not limited to:

- Unwanted or inappropriate sexual innuendo, propositions, sexual attention or suggestive comments and gestures; humor and jokes about sex or gender-specific traits; sexual slurs or derogatory language directed at another person's sexuality or gender; insults and threats based on sex or gender; and other oral, written or electronic communications of a sexual nature that an individual communicates as unwanted and unwelcome.
- Written graffiti, social media postings, or the display or distribution of sexually explicit drawings, pictures, or written materials; sexually charged name-calling; sexual rumors or ratings of sexual activity/performance/ the circulation, display, or creation of e-mails or websites of a sexual nature.

Non-academic display or circulation of written materials or pictures degrading to an individual(s) or gender group (it is expected that instructors will offer appropriate warning regarding the introduction of explicit and triggering materials used in the classroom).

- Inappropriate or unwelcome physical contact or suggestive body language, such as touching, patting, pinching, hugging, kissing, or brushing against an individual's body.
- Undue and unwanted attention, such as repeated inappropriate flirting, inappropriate or repetitive compliments about clothing or physical attributes, staring, or making sexually oriented gestures.

- Physical coercion or pressure of an individual to engage in sexual activity or punishment for a refusal to respond or comply with sexual advances.
- Change of academic or employment responsibilities (increase in difficulty or decrease of responsibility) based on sex, gender identity/express, or sexual orientation.
 - Use of a position of power or authority to: (1) threaten or punish, either directly or by implication, for refusing to tolerate harassment, for refusing to submit to sexual activity, or for reporting harassment or (2) promise reward in return for sexual favors.
 - Sexual assault.
 - Abuse, disruptive or harassing behavior, verbal or physical, which endangers another's mental or physical health, including but not limited to threats, acts of violence, or assault based on gender and/or in the context of intimate partner violence.
 - Demeaning verbal or other expressive behavior of a sexual or gendered nature in instructional settings.
 - Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping. Harassment for exhibiting what is perceived as a stereotypical characteristic for one's sex, or for failing to conform to stereotypical notions of masculinity and femininity, regardless of actual or perceived sexual orientation or gender identity of the harasser or target.

Additional Forms of Prohibited Sexual Misconduct

Sexual misconduct may vary in its severity and consists of a range of behaviors. The following descriptions represent sexual behaviors that violate NIACC's community standards and a person's rights, dignity, and integrity.

Sexual violence – Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. This includes rape, sexual assault, battery and sexual coercion. Sexual violence may involve individuals who are known to one another or have an intimate and/or sexual relationship, or may involve individuals not know to one another.

Sexual exploitation – An act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage or any other non-legitimate purpose. The act or acts of sexual exploitation are prohibited even though the behavior does not



constitute one of the other sexual misconduct offenses. Sexual exploitation may involve individuals who are known to one another, have an intimate or sexual relationship, and/or may involve individuals not known to one another.

Stalking – A course of conduct involving more than one instance of unwanted attention, harassment, physical or verbal contact, or any other course of conduct directed at an individual that could be reasonably regarded as likely to harm or place that individual in fear of harm or injury, including physical, emotional, or psychological harm. This includes cyber-stalking, a particular form of stacking in which electronic media such as the internet, social networks, blogs, cell phones, texts or other similar devices or forms of contact are used to pursue, harass, or any unwelcome contact with another person. Stalking and cyber-stalking may involve individuals who are known to one another or have an intimate or sexual relationship, or may involve individuals not known to one another.

Statement on Consent, Coercion, Incapacitation, and Alcohol

Consent to engage in sexual activity must be knowing and voluntary. Consent to engage in sexual activity must exist from the beginning to end of each instance of sexual activity, and for each form of sexual contact. Consent to one form of sexual contact does not constitute consent to all forms of sexual contact.

Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity. Relying on non-verbal communication can lead to misunderstandings. Consent may not be inferred from silence, passivity, lack of resistance or lack of active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. In the absence of an outward demonstration, consent does not exist.

A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates willingness to engage in sexual activity each time such activity occurs. Consent may be withdrawn by either party at any time. In the state of Iowa, consent may never be given by minors under the age of 16. Consent is not effective if it results from the use or threat of physical force, intimidation, or coercion, or any other

factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual contact.

An individual who is incapacitated is not able to make rational, reasonable judgements and therefore is incapable of giving consent. Incapacitation is the inability, temporarily or permanently, to give consent, because the individual is mentally and/or physically helpless due to drug or alcohol consumption, either voluntarily or involuntarily, or the individual is unconscious, asleep or otherwise unaware that the sexual activity is occurring. Where alcohol is involved, incapacitation is a state beyond drunkenness or intoxication.

Bystander Intervention

The College expects all community members to take reasonable and prudent actions to prevent or stop an act of sexual misconduct. Taking action may include intervention, calling law enforcement, or seeking assistance from person in authority. Community members who choose to exercise this positive moral obligation will be supported by the College and protected from retaliation.

Statement against Retaliation

It is a violation of College policy to retaliate in any way against an individual or group because the individual or group of individuals reported an allegation of sexual misconduct.

The College recognizes that retaliation can take many forms, may be committed by an individual or a group against an individual or a group, and that a Respondent can also be the subject of retaliation by the Complainant or a third party. The College will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate. An individual reporting sexual misconduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is later not proven.

Disciplinary Action

The College reserves the right to take whatever measure it deems necessary in response to a complaint of harassment or violence by a student, faculty member, staff member, administrator, or other College employee because of sex, sexual orientation, gender identity, race, color, national origin, relegation, age, mental or physical disability, genetic information, veteran status or any other legally protected class. Such measures for employees include discipline up to and including termination of employment and for students include, but are not limited to modification of on-campus housing arrangements, probation, and interim suspension from



campus pending a decision, and expulsion. Not all forms of harassment and/or sexual violence will be deemed to be equally serious offenses and the College reserves the right to impose different sanctions, ranging from verbal warning to expulsion of enrollment or to termination of employment, depending on the severity of the offense. Title IX requires notification be made to Dr. Shelly Schmit, Title IX Coordinator of the resolution of any potential sexual harassment and/or sexual violence issues.

The individual, in accordance with College policy, may appeal any disciplinary action resulting from this procedure.

Title IX Coordinator(s)

Dr. Rachel McGuire serves as the Title IX Coordinator, and ADA/504 Coordinator, disability compliance and the College's policy on equal opportunity, harassment, and non-discrimination for students. The Title IX Coordinator has the primary responsibility for coordinating College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under the policy as it relates to **students and applicants for admission**.

Dr. Shelly Schmit serves as the Title IX Coordinator, and ADA/504 Coordinator, oversees implementation of the College's Affirmative Action and Equal opportunity Plan, disability compliance and the College's policy on equal opportunity, harassment and non-discrimination of employees. The Title IX Coordinator has the primary responsibility for coordinating College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy as it relates to **employees and applicants for employment**.

Independence and Conflict-of-Interest

The Title IX Coordinator(s) acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator(s) oversee all resolutions under this policy and these procedures. The members of this Title IX investigation, hearing and resolution teams are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator(s), contact Dr. Steve Schulz, President, NIACC, 500 College Drive, Mason City, Iowa 50401, or Steve.Schulz@niacc.edu, or 641-422-4000. Concerns of bias or a potential conflict of interest by any

other Title IX investigation, hearing, and resolution team member should be raised with the applicable Title IX Coordinator.

Resources

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

On Campus Contact (Title IX Coordinators)

Students
Dr. Rachel McGuire, Title IX Coordinator,
Rachel.McGuire@niacc.edu, 641-422-4104
Student Development Office Manager, 641-422-4208

Staff
Dr. Shelly Schmit, Title IX Coordinator,
Shelly.Schmit@niacc.edu, 641-422-4211

Off Campus Contacts

- Crisis Intervention Services 641-424-9133
Sexual Assault Hotline 1-800-479-9071
Domestic Violence Hotline 1-855-424-9133
- Iowa Sexual Abuse Hotline..... 1-800-284-7821
- National Child Abuse Hotline..... 1-800-422-4453
- Prairie Ridge Integrated
Behavioral Healthcare..... 641-424-2391
1-866-429-2391
- Sexually Transmitted Diseases HL ... 1-800-227-8922

Supportive Measures

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

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

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice of a complaint. At the time that supportive measures are offered, the College will inform the Complainant, in writing, that they may file a formal complaint with the College either at the time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are



taken into account with respect to the supportive measures that are planned and implemented.

The College will maintain the privacy of the supportive measures, provided that privacy does not impair the College's ability to provide the supportive measures. The College will act to ensure as minimal an academic impact on the parties as possible. The recipient will implement measures in a way that does not unreasonably burden the other party.

Mandatory Reporting

All College employees, including faculty, staff, and administrators, student employees who have a responsibility for student welfare are required to share with a Title IX Coordinator any report of sexual misconduct they receive or of which they have become aware.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected discrimination or harassment. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegation, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at NIACC for a complainant or third-party (Including parents/guardians when appropriate):

a. Confidential Resources

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

- On Campus Personal Wellness Coordinator
- Off-campus (Non-employees):
 - Licensed professional Counselors and other medical providers
 - Local Rape Crisis Counselors
 - Domestic Violence resources
 - Local or state assistance agencies
 - Clergy/Chaplains
 - Attorneys

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

NIACC employees who are confidential will timely submit anonymous statistical information or Clery Act purposes unless they believe it would be harmful to their client.

b. Anonymous Notice to Mandated Reporters

At the request of a Complainant, notice may be given by a Mandated Reporter to the Title IX Coordinator anonymously, without identification of the Complainant. The Mandated Reporter cannot remain anonymous themselves.

If a Complainant has requested that a Mandated Reporter maintain the Complainant's anonymity the Mandated Reporter may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Mandated Reporter can consult with the Title IX Coordinator on that assessment without revealing personally identifiable information.

Anonymous notice will be investigated by the College to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided.

However, anonymous notice typically limits the Recipient's ability to investigate, respond, and provide remedies, depending on what information is shared.

When a Complainant has made a request for anonymity, the Complainant's personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the Title IX Coordinator. Mandated Reporters cannot maintain requests for anonymity for Complainants who are minors.

c. Mandated Reports and Formal Notice/ Complaints

All employees of NIACC (including student employees), with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Title IX Coordinators all know details of a report made to them in the course of their employment.



Employees must also promptly share all details of behaviors under the policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

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

Supportive measures may be offered as the result of such disclosures without formal action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment or discrimination of which they become aware is a violation of policy and can be subject to disciplinary action for failure to comply.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though the College is technically not on notice when a harasser is also a Mandated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether the College proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator’s decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the College to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Recipients may be compelled to act on alleged employee misconduct irrespective of a Complainant’s wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the College’s ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the College proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant.

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

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

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by the College, and to



have the incidents investigated and properly resolved through these procedures.

Grievance Procedure

Any person who believes they have been subjected to discrimination, harassment (including sexual harassment, sexual violence, sexual misconduct, domestic violence, dating violence, or stalking), bullying or retaliation may report the behavior to the Title IX Coordinator for the purpose of obtaining a prompt and equitable resolution.

A complainant may submit a written grievance or give verbal notice to a Title IX Coordinator. Complaints may be submitted electronically at: <https://etcentral.niacc.edu/#/form/35>

Individuals additionally always have the right to file a formal complaint with:

Iowa Civil Rights Commission in Des Moines, IA by calling 515-281-4121 or 1-800-457-4416

or

Office for Civil Rights (Midwestern Division), US Department of Education in Chicago, IL by calling 312-730-1560 or via email to OCR.Chicago@ed.gov.

Complaint Procedure

PROCEDURE FOR RESOLUTION OF DISCRIMINATION COMPLAINTS

Types of Complaints

These procedures specify the requirements for resolving any complaint by a student, prospective student, prospective employee, employee or any other interested person who believes that he or she has been subjected to discrimination on the basis of sex; race; age; color; creed; national origin; religion; disability; sexual orientation; gender identity; genetic information; or veteran status in its programs, activities, or employment practices, shall have the right to file a formal complaint.

Jurisdiction

These procedures apply to the administration of the College's, employment practices, educational programs, and activities, including recruitment, admission, counseling and guidance, program selection and placement.

If conducting business or participating in training at other educational organizations or training sites, a complainant may choose to first utilize and exhaust the complaint/grievance procedure of the educational organization or training site before filing a complaint

under Section IV with the College. Employees or students may elect to file their complaints initially, or if resolved unsatisfactorily, in accordance with section IV.

Confidentiality

The identity of any person who has furnished information relating to, or assisted in, an investigation of a complaint shall be kept confidential to the extent possible, while still conducting a thorough investigation.

Procedure

A. Informal Complaint

Complainants should contact Dr. Shelly Schmit at 641-422-4211 to lodge an informal complaint. A staff person will be assigned to hear the complaint and assist in the resolution of the concern. Lodging an informal complaint is voluntary on the part of the complainant and does not replace or eliminate the right to file a formal complaint.

B. Formal Complaint

1. Written Complaint

If a complainant is dissatisfied with the resolution of an informal complaint or wishes to proceed to filing a formal written complaint, the complainant may contact the Title IX Coordinator in writing by email or by completing the electronic form at: <https://etcentral.niacc.edu/#/form/35> or <https://www.niacc.edu/about/non-discrimination-statement/>

Upon receipt of a complaint alleging discrimination, a notice of the complaint will be prepared and sent to the person(s) named in the complaint and to the President of the College containing:

- a) The identity of the complainant (unless a request to remain confidential is being honored);
- b) The dates of the alleged offenses;
- c) A copy of the Discrimination/Harassment Complaint Form or relevant summary of the allegations.

2. Investigation

The Equity Coordinator or applicable Title IX Coordinator will secure an investigator to investigate the complaint. During the investigation:

- a) The Investigator will interview the complainant and any named person(s). In so doing, each



person will be permitted to present their version of events, provide any supporting evidence, and identify witnesses to the investigator.

- b) During interviews, a person may be accompanied by a silent representative/support person. The silent representative or support person will not be allowed to provide information to the investigator or ask questions of the party during the interview process.
- c) The Investigator will interview all identified witnesses.

The Investigator will, based on the information gathered in the investigation, determine based on a preponderance of the evidence whether the alleged discrimination occurred in violation of College policy. The Investigator will provide a Resolution Decision to the complainant and any named person(s) which states the Investigator's finding of whether the alleged discrimination occurred, any individual remedies to the complainant, and a description of the appeal process. If the Investigator determines a named person(s) should receive additional sanctions, that person will receive notice of the sanction.

Resolution Decisions should be provided to the parties within thirty (30) working days of the filing of the complaint, but may be longer for good cause. In no event shall the Resolution Decision be delivered later than ninety (90) working days of the date the complaint was filed.

C. Appeal to President

If the complainant, or a person complained against, is not satisfied with the resolution, an appeal may be made to the President. To file an appeal, a written request must be submitted to the President within ten (10) working days of receipt of the Resolution Decision. The President or President's designee will review the case and the Investigator's file, and render an Appeal Resolution Notice.

Appeal Resolution Notices should be provided to the parties within thirty (30) working days of the filing of the appeal, but may be longer for good cause. In no event shall the Appeal Resolution Notice be delivered later than ninety (90) working days of the date the Appeal was filed.

D. Resolution/Sanctions

Resolutions of discrimination complaints may include a broad range of remedies to eliminate and/or remediate instances of discrimination, and will be decided on a case

-by-case basis. Remedies could include reversal of academic or employment decisions, or providing accommodations to the complainant such as counseling, alternative living, working, and transportation arrangements and academic accommodations. Remedies may also include sanctions against individuals who engaged in discrimination, ranging from warnings to expulsion/termination of employment.

Individuals with disabilities will be furnished appropriate auxiliary aids or services necessary to ensure that communications are effective through this procedure. Persons not familiar with English shall be provided with a written or oral translation into the language understood by them. Persons may request additional assistance and shall be advised of each right to the satisfaction of the person's understanding.

Inquiries about the complaint procedure may be directed to Dr. Shelly Schmit, Equity Coordinator, North Iowa Area Community College, 500 College Drive, Mason City, Iowa 50401, telephone 641-422-4211, e-mail Shelly.Schmit@niacc.edu

Title IX Review

The President of the College has appointed Dr. Shelly Schmit to serve as the Title IX Coordinator. In her role as Title IX Coordinator, Dr. Schmit oversees the College's centralized review, investigation and resolution process for reports of sexual misconduct. She also coordinates the College's compliance with Title IX. Dr. Shelly Schmit is supported by Dr. Rachel McGuire who serves as the Title IX Coordinator for the student population. Each is knowledgeable and trained in state and federal laws that apply to matters of sexual harassment as well as College policy and procedure.

The duties of the Title IX Coordinators include training, education, and climate checks as well as the oversight of procedures that promptly and equitably eliminate sexual harassment, prevent its recurrence and address its effects on individuals and our community. In addition, they will:

- Oversee the investigation and resolution of all reports of sexual misconduct.
- Meet with any individual, whether a Complainant, a Respondent, or a third party, to discuss interim measures, resources, and procedural options on and off campus.
- Ensure prompt and equitable resolutions that comply with all requirements and timeframes specified in the complaint procedures.

The Title IX Coordinator will coordinate the gathering of information from the Complainant, the Respondent, and any other individuals who may have relevant



information. In gathering such information, the Coordinator will comply with applicable laws and NIACC policies. The investigation will be thorough, impartial, and fair, and all individuals will be treated with appropriate sensitivity and respect. Information gathered during the investigation will be used to evaluate the responsibility of the Respondent, provide for the safety of the individual and the College campus community, and impose remedies as necessary to address the effects of the alleged conduct. An investigative report will serve as the foundation for all related resolution processes. Both the Respondent and Complainant will be notified in writing of the outcome of the complaint.

The investigation and resolution of all reports will generally be completed within 60 to 90 days. Extenuating circumstances including the complexity and severity of a complaint may arise that require the complaint process to extend beyond 60 to 90 days. In the event that the investigation and resolution exceed this time frame, the College will notify all parties of the need for additional time and best efforts will be made to complete the process in a timely manner.

Complaint Procedure

PROCEDURE FOR RESOLUTION OF SEXUAL HARASSMENT COMPLAINTS

The procedures below apply **only** to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrator, or faculty members.

Notice/Complaint

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

The College will initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to proceed formally; and/or
- 2) An informal resolution; and/or
- 3) A Formal Grievance Process including an investigation and a hearing.

The investigation and grievance process will determine whether or not the Policy has been violated. If so, the College will promptly implement effective remedies

designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.

Initial Assessment

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator¹ engages in an initial assessment, which is typically one to five business days in duration. The steps in an initial assessment can include:

- If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
 - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
 - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes and then seeks to facilitate implementation. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
 - If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, and may seek to determine if the College is also willing to engage in informal resolution.
 - If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
 - ◆ If it does, the Title IX Coordinator will initiate the formal investigation and

¹ If circumstances require, the President or Title IX Coordinator will designate another person to oversee the process below should an allegation be made about the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.



grievance process, directing the investigation to address:

- an incident, and/or
 - a pattern of alleged misconduct, and/or
 - a culture/climate issue, based on the nature of the complaint.
- ◆ If it does not, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply, which resolution process is applicable, and will refer the matter accordingly. Please note that dismissing a complaint under Title IX is just procedural, and does not limit the College’s authority to address a complaint with an appropriate process and remedies.

a. Violence Risk Assessment

The Title IX Coordinator may determine that a violence risk assessment should be conducted by the Threat Assessment Team as part of the initial assessment. A violence risk assessment can aid in ten critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to impose transcript notation or communicate with a transfer Recipient about a Respondent;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning/Trespass order/Persona-non-grata is needed.

Threat assessment is the process of evaluating the action ability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A violence risk assessment is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

b. Dismissal (Mandatory and Discretionary)²

The College must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined in the Policy hereinabove, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by the College (including buildings or property controlled by recognized student organizations), and/or does not have control of the Respondent; and/or
- 3) The conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the recipient.

NIACC may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

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

Upon any dismissal, the NIACC will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

Counterclaims

The College is obligated to ensure that the grievance process is not abused for retaliatory purposes. The College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by the Respondent may be made in good

²These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR Part 106.45.



faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

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

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

Right to an Advisor

The parties may each have an Advisor³ of their choice present with them for all meetings and interviews within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.⁴

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-makers.

a. Who Can Serve as an Advisor

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the NIACC community.

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from the College, the Advisor will be trained by the College and be familiar with the College's resolution process.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

³ This could include an attorney, advocate, or support person. The law permits one Advisor for each party (witnesses are not entitled to Advisors within the process, though they can be advised externally), but some Recipients do permit more than one. If the Recipient allows more than one Advisor for one party, they should do so for all parties.

⁴ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

b. Advisors in Hearings/College-Appointed Advisor

Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an Advisor for a hearing, the College will appoint a trained Advisor for the limited purpose of conducting any cross-examination.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct cross-examination, the College will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Decision-makers during the hearing.

c. Advisor's Role

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

The College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the College is not obligated to provide an attorney.

d. Pre-Interview Meetings

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and College's policies and procedures.

e. Advisor Violations of NIACC's Policy

All Advisors are subject to the same College policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address College officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator or other Decision-makers



except during a hearing proceeding, during cross-examination.

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

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

f. Sharing Information with the Advisor

The College expects that the parties may wish to have the College share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

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

g. Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them.

h. Expectations of an Advisor

The College generally expects an Advisor to adjust their schedule to allow them to attend meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The College may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

i. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigator (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

Resolution Processes

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with College policy. While there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose.

a. Informal Resolution

Informal Resolution can include three different approaches:

- When the parties agree to resolve the matter through an alternate resolution mechanism;
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process; or
- When the Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. If a Respondent wishes to initiate Informal Resolution, they should contact the Title IX Coordinator to so indicate.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.



Prior to implementing Informal Resolution, the College will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the College.

The College will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

b. Alternate Resolution

Alternate Resolution is an informal process by which a mutually agreed upon resolution of an allegation is reached. All parties must consent to the use of Alternate Resolution.

The Title IX Coordinator may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- The parties' amenability to Alternate Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Cleared violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the Alternate Resolution facilitator with this type of complaint;
- Complaint complexity;
- Emotional investment/intelligence of the parties;
- Rationality of the parties;
- Goals of the parties;
- Adequate resources to invest in Alternate Resolution (time, staff, etc.)

The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

c. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria in that section above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of College policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

d. Negotiated Resolution

The Title IX Coordinator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and the College. Negotiated Resolutions are not appealable.

Formal Grievance Process: Notice of Investigation and Allegations

The Title IX Coordinator will provide written notice of the investigation and allegations to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The notice of investigation is also copied to the Complainant, who is to be given advance notice of when the notice will be delivered to the Respondent.

The notice of investigation will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),



- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that the College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the College's policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that the College's policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- The name(s) of the Investigator, along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the notice of investigation may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official College records, or emailed to the parties' College-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

Resolution Timeline

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

Appointment of Investigators

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints legal counsel to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed.

Ensuring Impartiality

Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator, Investigator, and Decision-makers may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence which supports that the Respondent engaged in a policy violation and evidence which supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

The College operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

Investigation Timeline

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

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

Delays in the Investigation Process and Interactions with Law Enforcement

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

The College will communicate in writing the anticipated duration of the delay and reason to the parties and



provide the parties with status updates if necessary. The College will promptly resume its investigation and resolution process as soon as feasible. During such a delay, College will implement supportive measures as deemed appropriate.

Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
 - In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
 - Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
 - Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
 - Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
 - Meet with the Complainant to finalize their interview/statement, if necessary
 - Prepare the initial Notice of Investigation and Allegation. The notice may be amended with any additional or dismissed allegations.
 - Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party
 - Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
 - Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
 - Interview all available, relevant witnesses and conduct follow-up interviews as necessary
 - Allow each party the opportunity to suggest witnesses and questions they wish the Investigator to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
 - Complete the investigation promptly and without unreasonable deviation from the intended timeline
 - Provide regular status updates to the parties throughout the investigation.
 - Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding.
 - Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included.
 - Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the Recipient does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).
 - The Investigator may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses.
 - The Investigator will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period.
 - The Investigator shares the report with the Title IX Coordinator and/or legal counsel for their review and feedback.



- The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report.

Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of the College are expected to cooperate with and participate in the investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

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

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred. If a witness submits a written statement but does not intend to be and is not present for cross examination at a hearing, their written statement may not be used as evidence.

Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator (s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

Evidentiary Considerations in the Investigation

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Referral for Hearing

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the parties and the Decision-maker–unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator will select an appropriate panel of Decision-makers.

Hearing Decision-maker Composition

The College will designate a three-member panel at the discretion of the Title IX Coordinator. The single Decision-maker will also Chair the hearing. One of the three members will be appointed as Chair by the Title IX Coordinator.

The Decision-makers will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the resolution process in the event that a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

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

Evidentiary Considerations in the Hearing

Any evidence that the Decision-makers determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.



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

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-makers at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Decision-maker renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker (s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-

maker(s). For compelling reasons, the Chair may reschedule the hearing.

- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the Recipient will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-makers about the matter, unless they have been provided already.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the College and remain within the 60-90 business day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.

Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator or the Chair at least five (5) business days prior to the hearing.

The Title IX Coordinator or the Chair can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator or the Chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

Pre-Hearing Preparation

The Chair, after any necessary consultation with the parties, Investigator and/or Title IX Coordinator, will



provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator or have proffered a written statement or answered written questions, unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair will delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-makers at least five (5) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than one day prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will give the Decision-makers a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting(s) with the parties and/or their Advisors to invite them to submit the questions or topics they wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from

asking at the hearing for a reconsideration based on any new information or testimony offered at the hearing. The Chair must document and share their rationale for any exclusion or inclusion at this pre-hearing meeting.

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

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

The pre-hearing meeting(s) will not be recorded.

Hearing Procedures

At the hearing, the Decision-makers has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the policy on Equal Opportunity, Harassment, and Nondiscrimination.

Participants at the hearing will include the Chair, members of the decision making panel, the hearing officer, the Investigator who conducted the investigation, the parties, Advisors to the parties, any called witnesses, the Title IX Coordinator and anyone providing authorized accommodations or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-makers and the parties and will then be excused.

Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the



same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

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

The Order of the Hearing – Introductions and Explanation of Procedure

The Chair explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-makers on the basis of bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review and decide the challenge.

The hearing officer then conducts the hearing. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator. The hearing officer may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

Investigator Presents the Final Investigation Report

The Investigator will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-makers and the parties (through their Advisors). The Investigator will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-makers should ask the Investigator their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

Testimony and Questioning

Once the Investigator presents their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning

by the Decision-makers and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Hearing Officer. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request or agreed to by the parties and the Chair), the proceeding will pause to allow the Chair to consider it, and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Hearing Officer may explore arguments regarding relevance with the Advisors, if the Hearing Officer so chooses. The Hearing Officer will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Hearing Officer will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Hearing Officer has final say on all questions and determinations of relevance, subject to any appeal. The Hearing Officer may ask advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the Hearing Officer has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

Refusal to Submit to Cross-Examination and Inferences

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-makers may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-makers must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.



If the party or witness attends the hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from admission.

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

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-makers may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with the College's established rules of decorum for the hearing, the Decision-makers may require the party to use a different Advisor. If a recipient-provided Advisor refuses to comply with the rules of decorum, the College may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

Recording Hearings

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

The Decision-makers, the parties, their Advisors, and appropriate administrators of the College will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

Deliberation, Decision-making, and Standard of Proof

The Decision-makers will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. A simple majority vote is required to determine the finding. The preponderance of the evidence. The Hearing Officer may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Decision-makers may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-makers may – at their discretion – consider the statements, but they are not binding.

The Decision-makers will review the statements and any pertinent conduct history provided by the Vice President of Institutional Effectiveness and Operational Development and will recommend the appropriate sanction(s) in consultation with other appropriate administrators as required.

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions or recommendations.

This report typically should not exceed three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

Notice of Outcome

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within 10 business days of receiving the Decision-makers deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official College records, or emailed to the parties' College-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will identify the specific policy (ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the College from the receipt of the misconduct report to the determination,



including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the Recipient is permitted to share such information under state or federal law; any sanctions issued which the College is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the College's educational or employment program or activity, to the extent the College is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by the College to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

Withdrawal or Resignation While Charges Pending

Students: If a student has an allegation pending for violation of the Policy on Equal Opportunity, Harassment, and Nondiscrimination, the College may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the College, the resolution process ends, as the College no longer has disciplinary jurisdiction over the withdrawn student.

However, the College will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to the College. A hold will be placed on their ability to be readmitted.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to the College unless and until all sanctions have been satisfied.

During the resolution process, the College may put a hold on a responding student's transcript or place a

notation on a responding student's transcript or dean's disciplinary certification that a disciplinary matter is pending.

Employees: Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the College no longer has disciplinary jurisdiction over the resigned employee.

However, the College will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

The employee who resigns with unresolved allegations pending is not eligible for rehire with NIACC, and the records retained by the Title IX Coordinator will reflect that status.

All College responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

Appeals

Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator within 5 days of the delivery of the Notice of Outcome.

A single Appeal Decision-maker will Chair the appeal. The Decision-maker will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process. The Request for Appeal will be forwarded to the Appeal Chair for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

a. Grounds for Appeal

Appeals are limited to the following grounds:

- (A) Procedural irregularity that affected the outcome of the matter;
- (B) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and



- (C) The Title IX Coordinator, Investigator, or Decision-makers had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

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

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Chair will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s).

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator and/or the original Decision-makers will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given 5 business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Chair to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed for standing by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator and/or original Decision-makers, as necessary, who will submit their responses in 5 business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and will render a decision in no more than 5 business days, barring exigent circumstances.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the College is permitted to share according to state or federal law, and the rationale supporting the essential findings.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' College-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

b. Appeal Considerations

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction (s)/responsive action(s) only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-makers merely because they disagree with the finding and/or sanction(s).
- The Appeal Chair/Panel may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator and/or Decision-makers for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- The results of a remand to a Decision-makers cannot be appealed.

Recordkeeping

The College will maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;



3. Any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent;
 - b. Any measures designed to restore or preserve equal access to the College's education program or activity; and
 - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The College will also maintain any and all records in accordance with state and federal laws.

Revision of this Policy and Procedures

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation and will be reviewed and updated annually by the Title IX Coordinator. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

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Student Conduct Code

The Student Conduct Code and other appropriately published rules of conduct play an important role in NIACC's commitment to provide for the safety and security of all of its community members. Students are expected to conduct themselves in a responsible manner. (<https://www.niacc.edu/student-life/student-handbook/>)

It is expected that each student will obey federal, state, and local laws; will show respect for properly constituted authority; and will exhibit and maintain integrity and honor in all matters related to the College.

Failure of students to comply with duly established laws or regulations may subject violators to appropriate action by NIACC and/or other civil authorities. Such action might include referral to College disciplinary processes and even the possibility of arrest. NIACC does not attempt to shelter students from federal, state, or local laws.

Reporting Crimes

Students are encouraged to report all criminal incidents and/or suspicious activity to the Mason City Police Department. Any crime on campus or violation of the Student Conduct Code should be reported to the Vice President of Student Development and Success.

NIACCAAlert

NIACCAAlerts is an emergency notification service to provide phone calls, text messages and e-mail notices to students and staff about campus closings due to weather and other emergency announcements should there be a need to quickly notify the campus community of threats to the safety of students and staff. Text messages may come from 30890 or from 58339.

NIACC will create an account for current students to receive email messages.

Students – To update or add your cell phone number to receive emergency messages, please login to TrojanHome and fill out the Etrieve "Cell Phone Change" form.

For assistance contact the Help Desk: Phone 641-422-4357 or 1-888-466-4222, Ext. 4357

Missing Student and Emergency Contact Registration

The North Iowa Area Community College will require students residing in the College owned housing that they provide emergency contact information. This confidential information will be used only by authorized College personnel in the event a student is reported missing while at the institution.

If a NIACC student living in on-campus housing is suspected to be missing from campus, students, faculty, and staff are instructed to immediately report this



information to the Vice President of Student Development and Success. The Mason City Police Department must be called if any student is reported as missing after 24 hours of the report.

If the reported missing student resides off campus, individuals may contact the Vice President of Student Development and Success for assistance in making notifications to the emergency contact number and to the police department.

All reports of missing students made to the residence hall staff will be investigated and given priority to other tasks. If the investigation determines that the student has been missing over 24 hours then within the next 24 hours the NIACC staff will:

- Notify the individual identified as the student's emergency contact person;
- If under 18 years of age, the College will notify parent or guardian, and;
- If 18 years of age or older and have not provided an emergency contact, NIACC will notify the parent or guardian if the information is available and the appropriate law enforcement agency.

Personal Safety Reminders

- Be alert of your surroundings at all times.
- Walk with a friend, whenever possible.
- Watch your purse, backpack, books, and electronic devices i.e. computers and cell phones. Don't leave them unattended.
- Practice the "buddy system," which includes letting someone know where you are going, when you plan to return, what routes you will take and how to reach you.
- Stick to well-lighted, well-traveled areas. Avoid short-cuts and dark or isolated spots.
- Avoid jogging or biking alone. If you must go by yourself, stay clear of isolated or poorly-lit areas.
- Keep your keys safe.
- Have keys in hand before you get to your door or car, especially at night.
- Do not hitchhike. Never pick up hitchhikers.
- Keep your door locked.
- Automatic teller machines - avoid taking money out at night, be alert for suspicious persons in the area, keep your PIN separate from your access card, and never give out your PIN.
- Register your bicycle and never leave it unlocked.
- Always lock the doors to your vehicle and pocket your keys.
- Don't leave valuables or personal identification in view in your parked car.

- Never leave your car running unattended, even for a minute.
- Park in well-lit, busy areas as close to your destination as possible. Check the interior of your car before getting in.
- If you're followed by someone on foot, cross the street, change direction, vary your pace, go toward people, stay in the light, and call the police.
- If you're followed by someone in a car, change direction, go up a one-way street, record license number, and call the police.
- If you feel you are in danger or if approached suddenly, yell "Fire!" or "Help, Police!" and scream, scream, scream. Many people have avoided or escaped harm by screaming.
- If you're held up, give the person your wallet or purse quickly and quietly. Scream and run away if possible. Don't take chances, a robber may be armed.
- If you witness or are a victim of a violation of the law, try to get a description that includes the person's approximate age, height, weight, hair, voice, clothing, distinguishing characteristics, jewelry, scars, etc.
- If the violator has a vehicle, get a description of its make, year, color, markings, license number, etc.
- Know the locations of telephones.
- Remember, every emergency situation is different. Only you can decide which course of action is appropriate.



NIACC Crime Statistics Campus Security Act

Criminal Offenses On-campus

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
Murder/Non-negligent Manslaughter	0	0	0
Manslaughter by Negligent	0	0	0
Rape	0	1	0
Fondling	0	0	0
Incest	0	0	0
Statutory Rape	0	0	0
Robbery	0	0	0
Aggravated Assault	0	0	0
Burglary	1	4	0
Motor Vehicle Theft	0	1	1
Arson	0	0	0

Criminal Offenses On-Campus Student Housing Facilities

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
Murder/Non-negligent Manslaughter	0	0	0
Manslaughter by Negligent	0	0	0
Rape	0	1	0
Fondling	0	0	0
Incest	0	0	0
Statutory Rape	0	0	0
Robbery	0	0	0
Aggravated Assault	0	0	0
Burglary	0	0	0
Motor Vehicle Theft	0	0	0
Arson	0	0	0



Criminal Offenses
Non-Campus / Public Property / Reported by Local Police

	<u>FY</u> <u>2021</u>	<u>FY</u> <u>2022</u>	<u>FY</u> <u>2023</u>
Murder/Non-negligent Manslaughter	0	0	0
Manslaughter by Negligent	0	0	0
Rape	0	0	0
Fondling	0	0	0
Incest	0	0	0
Statutory Rape	0	0	0
Robbery	0	0	0
Aggravated Assault	0	0	0
Burglary	0	0	0
Motor Vehicle Theft	0	0	0
Arson	0	0	0

Hate Crimes
On-Campus /
On-Campus Student Housing Facility
Non-Campus / Public Property / Reported by Police

	<u>FY</u> <u>2021</u>	<u>FY</u> <u>2022</u>	<u>FY</u> <u>2023</u>
Murder/Non-negligent Manslaughter	0	0	0
Manslaughter by Negligent	0	0	0
Rape	0	0	0
Fondling	0	0	0
Incest	0	0	0
Statutory Rape	0	0	0
Robbery	0	0	0
Aggravated Assault	0	0	0
Burglary	0	0	0
Motor Vehicle Theft	0	0	0
Arson	0	0	0
Simple Assault	0	0	0
Larceny-Theft	0	0	0
Intimidation	0	1	0
Destruction/Damage/Vandalism of Property	0	0	0

VAWA (Violence Against Women Act) Offenses
On-Campus /
On-Campus Student Housing Facilities

	<u>FY</u> <u>2021</u>	<u>FY</u> <u>2022</u>	<u>FY</u> <u>2023</u>
Domestic Violence	0	0	0
Dating Violence	0	1	0
Stalking	0	0	0



**VAWA (Violence Against Women Act) Offenses
Non-Campus / Public Property**

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
Domestic Violence	0	0	0
Dating Violence	0	0	0
Stalking	0	0	0

**Arrests on Campus/
On-Campus Student Housing Facilities/
Non-Campus / Public Property**

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
Liquor Law Violations	0	0	0
Drug Law Violations	0	0	0
Illegal Weapons Possessions	0	0	0

**Disciplinary Actions/Judicial
Referrals - On-Campus Student Housing Facility**

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
Liquor Law Violations	49	26	52
Drug Law Violations	4	4	6
Illegal Weapons Possessions	0	1	0

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
Unfounded Crimes	0	0	0
Fires—On Campus Student Housing	0	0	0



Annual Notice of Non-Discrimination

It is the policy of North Iowa Area Community College not to discriminate on the basis of race, color, national origin, sex (including pregnancy), disability, age (employment), sexual orientation, gender identity, genetic information, creed, religion, and actual or potential parental, family or marital status, or veteran's status in its programs, activities or employment practices as required by the Iowa Code sections §§ 216.6 and 216.9, Titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d and 2000e), the Equal Pay Act of 1973 (29 U.S.C. § 206, et seq.), Title IX (Educational Amendments, 20 U.S.C. §§ 1681 – 1688), Section 504 (Rehabilitation Act of 1973, 29 U.S.C. § 794), and the Americans with Disabilities Act (42 U.S.C. § 12101, et seq.).

If you have questions or complaints related to compliance with this policy, please contact Dr. Shelly Schmit, EEO/AA Officer, 500 College Drive, Mason City, IA 50401, phone number 641-422-4211, email shelly.schmit@niacc.edu, or Director of the Office for Civil Rights, U.S. Department of Education, Citigroup Center, 500 W. Madison, Suite 1475, Chicago, IL 60661, phone number 312-730-1560, fax 312-730-1576.

