

Sexual Misconduct Grievance Procedures

Procedures Purpose

These procedures articulate the process for responding, investigating, and adjudicating allegations of Sexual Misconduct promptly, thoroughly, and equitably.

Definitions

- A. **Advisor:** An individual who may attend any portion of the conduct process at the request of a Respondent or Complainant to advise their Party. The Parties may have anyone serve as their Advisor, including an attorney (at their expense).
- B. **Appellate Officer:** The Appellate Officer reviews submitted appeals and renders a decision. For appeals related to the findings of a Hearing Panel, the President or their designee shall serve as the Appellate Officer. The University will designate someone other than the President or their designee to serve as the Appellate Officer for matters involving dismissals, emergency removals, and recommended sanctions for Employees. No Appellate Officer can be the same person(s) as the Title IX Coordinator, the Investigator(s), or the Hearing Panelist(s).
- C. **Chair:** The Chair of a Hearing Panel oversees and administers the prehearing procedures, hearing, deliberation, and determination. They also answer procedural questions and provide information about past sanctioning practices. The Title IX Coordinator shall appoint the Chair, who may or may not be a member of the Hearing Panel. All Hearing Panel members vote in the determination phase.
- D. **Complainant:** An individual alleged to have experienced conduct that violates this policy. For Non-Title IX Sexual Misconduct, the Complainant may or may not be a Student or Employee at the time of the conduct or the time of the report. For Title IX Sexual Misconduct, at the time of filing a Formal Complaint alleging Title IX Sexual Misconduct, the Student or Employee must be participating in or attempting to participate in the education program or activity of Columbus State University.
- E. **Formal Complaint:** A written document, filed by the Complainant or signed by the Title IX Coordinator, alleging Sexual Misconduct and requesting action on the allegation(s).
- F. **Hearing Panel:** A collection of three (3) to five (5) Hearing Panelists charged with determining whether a violation of the Sexual Misconduct Policy has occurred. Every attempt will be made to have an odd number of panelists.
- G. **Hearing Panelist (Decision Maker):** University faculty and staff members selected by the Title IX Coordinator and trained to serve as Decision Makers in Sexual Misconduct hearings. They resolve disputed facts under a preponderance of the evidence standard

and determine whether those facts substantiate one or more of the allegations of Sexual Misconduct. The Hearing Panelists determine imposed sanctions for Students and recommend sanctions for Employees. Under certain circumstances, the University may use non-university affiliated individuals if trained appropriately. A Hearing Panelist cannot be the same person(s) as the Title IX Coordinator, the Investigator(s), or an Appellate Officer.

- H. **Investigator:** Individual(s) trained in conducting investigations of alleged Sexual Misconduct who shall conduct a prompt, thorough, and equitable investigation of alleged Sexual Misconduct and prepare an investigation report that fairly summarizes Relevant Evidence.
- I. **Party(ies):** The Complainant and/or Respondent, as defined in the Sexual Misconduct Policy.
- J. **Preponderance of the Evidence:** The standard of review for all allegations of violations of the Sexual Misconduct Policy. This standard requires that the Relevant Evidence show that it is more likely than not that the alleged incident, act, or behavior did occur. Formal judicial rules of evidence do not apply to the investigation process.
- K. **Relevant Evidence:** Information that has a direct bearing on the key issues of the investigation. It is evidence that is material to the allegations or the defenses presented. Relevant Evidence helps prove or disprove the facts under consideration and is essential for making an informed decision. This includes directly related evidence obtained from any source that pertains to the allegations, even if the university does not plan to use it to determine responsibility.
- L. **Remedies:** Individualized services provided to a Complainant where a determination of responsibility for Sexual Misconduct has been made against the Respondent. These services are designed to restore or preserve equal access to the University's education program or activity. Such remedies may include the same services as supportive measures. However, Remedies may be disciplinary or punitive and may burden the Respondent, whereas supportive measures may not.
- M. **Respondent:** An individual alleged to have engaged in conduct that violates this policy. The status of the Respondent at the time of the conduct may influence the University's response, including the determination of the appropriate process and procedures.
- N. **Rules of Decorum:** A set of expectations that promotes dignity, respect, and order throughout a Sexual Misconduct hearing.

Reporting Sexual Misconduct

A. Ways to report a potential violation of the Sexual Misconduct Policy are:

- a. In-person to the Title IX Coordinator in Schuster Student Success Center, Room 102
- b. Via email to secoy_sarah@columbusstate.edu or dees_amber@columbusstate.edu.

- c. Online via the Sexual Misconduct Report Form (https://cm.maxient.com/reportingform.php?ColumbusStateUniv&layout_id=40) or any other form available for reporting concerns (e.g., Create Care).
 - d. Speaking to a Responsible Employee, as defined by the Sexual Misconduct Policy.
- B. A report should include as much information as possible, including the type of Sexual Misconduct, an incident summary with the date(s), time(s), and location(s), names of the Parties, names of individuals with direct or indirect knowledge of the incident, and Relevant Evidence (e.g., messages, videos, pictures of injuries).
- C. Individuals may report incidents anonymously, understanding it will be more difficult for the University to respond and act on the report.
- D. A reporter may or may not be the Complainant.
- E. See the Sexual Misconduct Policy for information about amnesty, false complaints, and retaliation.
- F. Because Sexual Misconduct may constitute criminal activity, a Complainant also has the option, should they so choose, of filing a report with campus or local police. The University may assist the Complainant in reporting the incident to law enforcement officials. Complainants considering filing a report with law enforcement should preserve any evidence including, but not limited to, the following:
 - a. Clothing worn during the incident, including undergarments;
 - b. Sheets, bedding, and condoms, if used;
 - c. List of witnesses with contact information;
 - d. Text messages, direct messages, call history, social media posts, and other communications;
 - e. Pictures of injuries; and/or
 - f. Videos.

Initial Actions After Receiving a Report

A. Supportive Measures

- a. Once the Title IX Coordinator has received information regarding an allegation of Sexual Misconduct, they will reach out to the Complainant. The outreach letter will include on- and off-campus resources, the availability of supportive measures, information on rights, a notice of the right to an Advisor, and a link to the Sexual Misconduct Policy, which links to these procedures. In addition, the letter will offer to meet to discuss resources, present options, and explain the grievance process.
- b. Information regarding supportive measures will be provided to the Respondent upon the Title IX Coordinator's initial communication.
- c. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without charge made

available to the Complainant and Respondent before or after filing a complaint. Supportive measures may also be available in the absence of a Formal Complaint. Such measures are designed to restore or preserve equal access to the institution's education program or activity without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the institution's educational environment or deter sexual harassment.

- d. Support measures may include counseling, health services, victim advocacy, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.
- e. The University will maintain the confidentiality of supportive measures provided to the Parties to the extent that maintaining such confidentiality would not impair the University's ability to offer the supportive measures.
- f. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.
- g. Remedies may include supportive measures when there is a finding of responsibility at the conclusion of the grievance process.

B. Interim Measures

- a. The Title IX Coordinator will evaluate whether interim measures are needed. Interim measures may be implemented at any point after the University becomes aware of an allegation of Sexual Misconduct. Such measures are designed to restore or preserve equal access to the University's educational programs or activities without unreasonable burden, including measures designed to protect the safety of all Parties or the University Community or deter Sexual Misconduct and retaliation.
- b. Before such measures are instituted, the Title IX Coordinator will, where practicable, provide the Respondent with an initial opportunity to respond to the allegations and the imposition of any interim measures.
- c. Imposing interim measures does not indicate that a violation of the Sexual Misconduct Policy has occurred and is designed to protect the Complainant and the University community and not to harm the Respondent. Interim measures are non-disciplinary or non-punitive. To the extent interim measures are imposed, they should minimize the burden on the Parties, where feasible.
- d. Interim measures may include but are not limited to a change of housing assignment; issuance of a no-contact order; restrictions or bars to entering specific University property; changes to academic or employment arrangements, schedules, or supervision; emergency removal; administrative leave; and other

measures designed to promote the safety and well-being of the Parties and the University's community.

- e. Remedies may include interim measures when there is a finding of responsibility at the conclusion of the grievance process.

C. Emergency Removal

- a. The Title IX Coordinator, in consultation with appropriate administrators, can act to remove, on an emergency basis, a Respondent entirely or partially from their education program and activities or employment activities when necessary to maintain safety. It should be limited to those situations where the University has undertaken an individualized safety and risk analysis and determined that the Respondent poses a serious and immediate danger or threat to persons or property.
- b. In making such an assessment, the University shall consider the existence of a significant risk to the health or safety of the Complainant or the campus community; the nature, duration, and severity of the risk; the probability of potential injury; and whether less restrictive means can be used to mitigate the risk significantly.
- c. The Respondent will be notified of the emergency removal and has an immediate opportunity to challenge it.

D. Administrative Leave

- a. Human Resources may elect to place an Employee on administrative leave, even if an emergency removal was not implemented. Administrative leave is a leave of absence initiated by the University to deal with special circumstances in which it is deemed necessary for an Employee to temporarily step away from their position for the period of leave.
- b. Administrative leave may be with or without pay and does not guarantee a return to their employment position.

E. Confidentiality and Privacy

- a. The University recognizes a Party's desire not to have information shared beyond those with a true need to know. The Federal Educational Rights and Protection Act and the University's Data Governance and Access Policy create levels of protection and privacy for the Parties. The information in the report will be shared only as necessary to provide supportive measures and investigate and resolve the alleged Sexual Misconduct.
- b. There are Confidential Employees designated by the University with whom a Party can talk in confidence (i.e., Counseling Center and Student Health Center).

The specific role and limitations of a Confidential Employee are outlined in the Sexual Misconduct Policy.

- c. If a Complainant requests that their identity be withheld or the allegation(s) not be investigated, CSU will consider, through the Title IX Coordinator, whether such request(s) can be honored while still providing a safe and nondiscriminatory environment for the University. Honoring the request may limit the University's ability to respond fully to the incident and may limit the University's ability to discipline the Respondent, if appropriate.
- d. The Title IX Coordinator will work with the appropriate University department(s) to determine whether a broader warning to the community is needed to comply with the Clery Act and whether reporting to the authorities is required by law.
- e. If the Complainant, or someone on their behalf, reports to the University Police Department or any law enforcement agency, it is subject to open records.

F. Initial Evaluation for Dismissal

- a. Regardless of how the University becomes aware of alleged Sexual Misconduct, the Title IX Coordinator shall ensure a prompt, fair, and impartial review and resolution of complaints. Where a report of Sexual Misconduct has been made, the Title IX Coordinator shall review the complaint to determine whether the allegation(s), as described, would violate CSU's Sexual Misconduct Policy. This may require some inquiry to obtain more information.
- b. If a complaint is dismissed under Title IX Sexual Misconduct, it may still meet the definition of Non-Title IX Sexual Misconduct.
- c. For Title IX Sexual Misconduct, the Title IX Coordinator must dismiss complaints if the complaint or allegation(s):
 - i. Would not constitute Title IX Sexual Misconduct even if proven;
 - ii. Did not occur in the University's education program or activity; or
 - iii. Did not occur against a person in the United States.
- d. While not required, the Title IX Coordinator can dismiss Non-Title IX Sexual Misconduct complaints on the following grounds:
 - i. The alleged conduct, on its face or as clarified, would not constitute a violation of the Sexual Misconduct Policy.
 - ii. The Complainant provides written notice that they want to withdraw the complaint or allegation(s).
 - iii. The Respondent is no longer enrolled or employed by the University. If the Respondent was enrolled or employed at the time of the conduct, a dismissal will be considered but is not required.
 - iv. Circumstances that may prevent the University from gathering Relevant Evidence sufficient to reach a determination regarding the complaint.
- e. Upon dismissal for any reason, the Title IX Coordinator will promptly send a written notice of and rationale for the dismissal. The letter will be sent

simultaneously to both Parties. If the Respondent was not notified of the complaint, a notice of dismissal does not need to be sent to the Respondent.

- f. A Party may appeal the decision to dismiss a complaint or allegation(s) in accordance with the process set forth in these procedures.
- g. Despite dismissing a report, the Parties may mutually agree to measures such as a mutual no-contact agreement or coaching/educational conversation for the Respondent.
- h. A dismissed report does not preclude a Complainant from providing a statement and submitting Relevant Evidence.
- i. A case can be re-evaluated if the circumstances leading to the dismissal change.
- j. A dismissed report may be referred to the Office of the Dean of Students or Human Resources, as appropriate, to review and determine if the alleged behavior violates another University policy.
- k. During an investigation, the Title IX Coordinator can dismiss the complaint if one of the grounds mentioned above is met.

Advisors

A. Complainant or Respondent Advisors

- a. Both the Complainant and Respondent, as Parties to the matter, shall have the opportunity to use an Advisor (who may or may not be an attorney) of the Party's choosing and at the Party's own expense. The Advisor may accompany the Party to all meetings and provide advice and counsel to their respective Party throughout the Sexual Misconduct process, including providing questions, suggestions, and guidance to the Party. Advisors may not actively participate in the process (e.g., speak on the Party's behalf) except to conduct cross-examination at a hearing. If a Party chooses not to use an Advisor during the investigation, the University will provide an Advisor to conduct cross-examination at the hearing on behalf of the Party.
- b. During the sexual misconduct process, all communication will be between the University and the Party, not the Advisor. The Advisor may be copied on all communications with the Party's written permission.

B. Hearing Panel Advisor

- a. Upon request, the Hearing Panel may have an Advisor (who may or may not be an attorney) present at the hearing.
- b. The Advisor may provide advice and counsel to the Hearing Panel, including providing questions, suggestions, and guidance to the Hearing Panel.

Request for No Action

- A. A Complainant may request no action be taken on a report.

- B. While the University may honor the request, it may determine that action is required to provide a safe and nondiscriminatory environment. The University will notify the Complainant of the decision.
- C. The report will be kept on file for informational purposes.
- D. The Complainant may request, at a future date, to pursue a different action on the report.

Request for Action

- A. When a Formal Complaint is filed or signed, a notice of allegation(s) must be sent to the Complainant and the Respondent.
- B. The Title IX Coordinator shall notify USG System Director or their designee if the allegation(s) could, standing alone as reported, lead to suspension/administrative leave or expulsion/termination (dismissal). If facts arise during an investigation that make such a sanction a possibility, the Title IX Coordinator must notify the USG System Director or their designee at that point.
- C. The notice of investigation must include a summary of the allegations, with sufficient details, including the following, if known, the Complainant's name and date(s), time(s), and location(s) of the alleged conduct, potential charges, and sanctions. In addition, it must include a statement that the Respondent is presumed not responsible and that a determination of responsibility is made at the conclusion of the grievance process. The statement must also include a notice of the right to an Advisor, on- and off-campus resources, supportive measures, information on rights, notice that the policy prohibits providing false information, complaints, or accusations, and a link to the Sexual Misconduct Policy. The notice must state that the Parties have the right to review and inspect evidence.
- D. After receiving the notice of allegations, the Respondent will have three (3) business days to respond in writing. In that response, the Respondent, to the extent permissible, will have the right to accept or deny responsibility or request an alternative/informal resolution. The Respondent may also set forth a defense with facts, witnesses, and supporting materials. A non-response will be considered a general denial of the allegations.
- E. Upon receipt of the Respondent's response, or at the expiration of time to respond, the Complainant will be sent the notice of allegations and the Respondent's response. The Complainant will also be notified that they have three (3) business days to respond to or supplement the notice and response.

Formal Complaint

A Formal Complaint is a written document filed by the Complainant or signed by the Title IX Coordinator alleging sexual harassment, as defined by Title IX and its implementing regulations, against a Respondent and requesting that the University open an investigation. The University will investigate the allegation(s) in a Formal Complaint

except in the circumstances described in these Procedures. To file a Formal Complaint, the Complainant must be participating in or attempting to participate in an education program or activity of the University occurring within the United States at the time of the filing.

Informal Resolution

- A. Title IX Sexual Misconduct allegations may be resolved informally if all the following are met:
 - a. A Formal Complaint was submitted.
 - b. The University deems it appropriate and engages in the informal resolution process.
 - c. The Respondent is not an Employee.
 - d. The Parties have received written notice of the allegations and an explanation of the policy and procedures related to an informal resolution.
 - e. The Complainant and Respondent agree, in writing (i.e., by email), to participate.
 - f. The Complainant and Respondent agree to the terms of the informal resolution.
- B. Should the Complainant request to explore an informal resolution, a letter will be sent to the Respondent indicating such.
- C. Before the terms of an informal resolution are reached, the Complainant or the Respondent can end discussions and request an investigation. The Complainant has the option to end the discussion and request no further action be taken. In addition, the University can end discussions should it deem a resolution is not likely.
- D. An agreed-upon informal resolution is considered final and precludes any further University actions on the complaint. Therefore, cases resolved through the informal resolution process cannot be appealed.
- E. At any point before a Hearing Panel makes a final decision, the Complainant or Respondent may request that an informal resolution be pursued.
- F. Informal resolutions can be facilitated by dialogue, formal mediation, mutual no-contact agreements, training, coaching/educational conversation, etc.
- G. Efforts will be made to complete the informal resolution process within forty-five (45) business days from the date of the notice of allegations to the Respondent.

Investigation

Any report that involves allegation(s) of Sexual Misconduct that could lead to the suspension, expulsion, or termination (dismissal) of the Respondent(s) must be promptly reported by the Title IX Coordinator to the USG System Director at the time this possibility is realized.

- A. The Respondent has the right to remain silent during the Sexual Misconduct grievance process without an adverse inference. If the Respondent chooses to remain silent, the

investigation may proceed, and policy violation charges may still result, which may be resolved against the Respondent.

- B. No Party, reporter, or witness should intentionally furnish false information, complaints, or accusations in the Sexual Misconduct Grievance process.
- C. Upon review of the Parties' responses to the allegations or at any time during the course of the investigation, if the Title IX Coordinator decides to investigate new or revised allegations not in the initial written notice, the Title IX Coordinator will issue an updated written notice of allegations to the Parties.
- D. Investigations process
 - a. If an alternative/informal resolution is unsuccessful or not permissible (e.g., Employee Respondent and Student Complainant), the Title IX Coordinator will provide both Parties with a notice of investigation, and the case will be promptly assigned to the Investigator(s).
 - b. Any Party may challenge the Investigator(s) on the grounds of conflict of interest or bias by submitting a written statement to the Title IX Coordinator setting forth the basis for the challenge. The challenge should be submitted within a reasonable time after the Party knows or reasonably should have known of the existence of that conflict or bias. The Title IX Coordinator will determine whether to sustain or deny the challenge and, if sustained, appoint a replacement.
 - c. Investigations shall
 - i. Be prompt, thorough, and equitable.
 - ii. Include an objective evaluation of all Relevant Evidence, including both inculpatory and exculpatory evidence, and shall not make credibility determinations based on a person's status as a Complainant, Respondent, or witness.
 - iii. Include a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
 - iv. Ensure the burden of proof and the burden of gathering evidence rests on the University, not the Parties.
 - v. Provide an equal opportunity for the Parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
 - vi. Not restrict the ability of the Parties to discuss the allegations or gather and present Relevant Evidence.
 - vii. Provide, to a Party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the Party to prepare to participate.
 - viii. Provide both Parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon

which the institution does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a Party or other source so that each Party can meaningfully respond to the evidence prior to the conclusion of the investigation.

- d. The University shall not access, consider, disclose, or otherwise use a Party's records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional in connection with the Party's treatment unless the Party has provided voluntary written consent. This also applies to information protected by recognized legal privilege.
- e. The Investigator shall use the documented Relevant Evidence to prepare an investigation report that fairly summarizes Relevant Evidence. The report shall include summaries of statements from the Parties and witnesses, Relevant Evidence collected, and a list of considerations for the Hearing Panelist(s). If a requested witness is not interviewed, the Investigator(s) will provide their rationale in the report.
- f. Before completing the investigative report, the Investigator(s) will send the initial investigation report to each Party and the Party's Advisor, if any. The Parties shall have ten (10) calendar days to review and respond to the initial investigation report in writing. The Investigator(s) will review the Parties' written responses, if any, to determine whether further investigation or changes to the investigation report are necessary.
- g. The final investigation report should be provided to the Complainant, the Respondent, and, if applicable, a Party's Advisor at least ten (10) calendar days before the Hearing. It should also be provided to all Hearing Panelists for review and consideration.

Formal Hearing

A. Hearing arrangements

- a. A hearing shall be set when a matter is not resolved through an alternative/informal resolution or in Title IX Sexual Misconduct allegations where the Respondent is an Employee and the Complainant is a Student. No formal hearing shall occur before the investigation report is finalized.
- b. A formal hearing letter will be provided to the Complainant and Respondent at least ten (10) calendar days before the hearing. The letter will include:
 - i. The hearing's date, time, and location. Hearings will be conducted in person or via video conferencing technology.
 - ii. Deadlines to provide a list of witnesses and additional Relevant Evidence for consideration.
 - iii. Request to indicate if they plan to attend the hearing.
 - iv. A list of the Hearing Panelists.

- c. All hearings will be closed to the public.
 - d. A hearing packet will accompany the formal hearing letter. It will include the final investigation report and the Rules of Decorum.
 - e. If the Chair determines that a Party or witness is unavailable and unable to be present due to extenuating circumstances, the Chair may establish special procedures for providing testimony. In doing so, the Chair must determine a valid basis for the unavailability and ensure such an arrangement will not unfairly disadvantage any Party.
 - f. The Parties may challenge a Hearing Panelist or Chair on the grounds of conflict of interest or bias by submitting a written statement setting forth the basis for the challenge. The written challenge must be submitted at least five (5) business days before the hearing. The Title IX Coordinator will determine whether to sustain or deny the challenge and, if sustained, appoint a replacement.
 - g. In hearings involving more than one Respondent, the Chair, in consultation with the Title IX Coordinator, at their discretion, may permit the hearings concerning each Respondent to be conducted either separately or jointly.
- B. Hearing rights and guidelines
- a. The Investigator(s) may testify as a witness regarding the investigation and findings but shall otherwise have no part in the hearing process and shall not attempt to influence the proceedings outside of providing testimony during the hearing. All Relevant Evidence will be available at the hearing for the Parties and their Advisors to refer to during the hearing.
 - b. The Chair shall determine the admissibility of any facts or Relevant Evidence known or knowable by the Parties before the issuance of the final investigative report, and that were not submitted during the investigation, in compliance with the obligation to provide both Parties an equal opportunity to present and respond to witnesses and other Relevant Evidence.
 - c. Relevant facts or evidence unknown or unknowable to the Parties before the issuance of the final investigative report may be admissible during the hearing. At the Chair's discretion, any relevant records, Relevant Evidence, and written statements may be accepted as information for consideration during the hearing. The Chair will determine how the facts or Relevant Evidence will be introduced.
 - d. At all times, participants in the hearing process, including Parties, Advisors, Hearing Panelists, and the Chair, are expected to act in a manner that promotes dignity and decorum throughout the hearing. The Chair reserves the right to remove any participant from the hearing environment if the participant refuses to adhere to the University's established Rules of Decorum, which will be distributed before the hearing.
 - e. The Chair shall resolve any procedural questions identified in the hearing. The Chair, in consultation with the Title IX Coordinator, may stop the hearing and postpone it to a future date. The Title IX Coordinator may dismiss the Hearing Panel and return the case for further investigation based on new Relevant

Evidence that the Title IX Coordinator reasonably believes might substantially change the investigation report or possible sanction(s).

- f. The Parties shall have the right to present witnesses and Relevant Evidence at the hearing. Witness testimony, if provided, shall pertain to knowledge and facts directly associated with the case being heard.
 - g. Where a Party or witness is unavailable, unable, or otherwise unwilling to participate in the hearing, including being subject to questioning, the Hearing Panel shall not draw an adverse inference against the Party or witness based solely on their absence from the hearing or refusal to subject to questioning.
 - h. The Parties shall have the right to ask the other Party and any witness relevant and follow-up questions, including those that challenge credibility. The Chair will limit questions only if they are irrelevant to determining the veracity of the allegations against the Respondent(s). In any such event, the Chair shall err on the side of permitting all the questions raised and must document the reason for not allowing a particular question to be raised.
 - i. Questions are asked by the Party's Advisor directly to the witnesses, including the other Party. Should a Party not have an Advisor, the University will provide one for the purpose of asking the questions during a hearing. Before a Complainant, Respondent, or witness answers a question, the Chair must determine whether a question is relevant and explain any decision to exclude a question as irrelevant before a Party or witness answers.
 - j. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior shall be deemed irrelevant unless such questions and evidence are offered to prove that someone other than the Respondent committed the alleged conduct or consent between the Parties during the alleged incident.
 - k. The Hearing Panel shall not access, consider, disclose, or otherwise use a Party's records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional in connection with the Party's treatment unless the Party has provided voluntary written consent. This also applies to information protected by recognized legal privilege.
 - l. The University shall make an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.
- C. Adjudication (decision-making) process
- a. The standard of review for determining whether a policy violation has occurred shall be a Preponderance of the Evidence.
 - b. Deliberations of the Hearing Panel will be conducted in private.
 - c. Following a hearing, the Complainant and Respondent shall simultaneously be provided a written decision on the finding of responsible or not responsible, sanctions imposed on Students, and sanctions recommended for Employees. The decision must include the allegations, procedural steps taken through the investigation and resolution process, finding(s) regarding responsibility, facts supporting the finding(s), and the Relevant Evidence relied upon and rationale for

any imposed or recommended sanction(s). The University shall also notify the Parties of their right to appeal, as outlined within these procedures. As appropriate, the decision will also describe any Remedies the University provides to the Complainant.

- d. If the Respondent is an Employee, Human Resources will receive a copy of the decision letter, with directions that the Parties have a right to appeal the decision. Human Resources cannot change the finding of responsible or not responsible. If the Respondent is found responsible, Human Resources will review and consider the recommended sanction(s) and then identify the appropriate next steps. The sanction(s) imposed by Human Resources may or may not be those that were recommended. If there is no appeal, Human Resources will notify the Title IX Coordinator of the imposed sanctions and the rationale for the sanctions within ten (10) business days of the date of the decision letter. The University shall simultaneously provide both Parties with the imposed sanction(s) and their right to appeal the imposed sanction(s), as outlined in these procedures.
- e. If the Respondent is a faculty member and the Hearing Panel recommends termination (dismissal), the President or designee will be informed of the recommendation in cases where there was no appeal or where the appellate officer upheld the recommendation. If the President or designee approves the recommendation of termination (dismissal), it will be the University's final decision. If the President or designee does not approve the recommendation, they will provide their reasons in writing. The Title IX Coordinator will then relay the decision to the Hearing Panel for feedback. At that point, if the President or designee still does not approve termination (dismissal), the Hearing Panel will reconvene and recommend new sanctions to follow the procedures outlined.

Sanctioning

- A. In determining the severity of the imposed or recommended sanctions, the following will be considered: the frequency, severity, and nature of the offense; history of past conduct; the Respondent's willingness to accept responsibility; previous University response to similar conduct; the strength of the Relevant Evidence; and the well-being of the University community. If the Respondent is an Employee, responsibilities and expectations within their employment position may also be considered.
- B. During sanction deliberation, if the Respondent had previously been found responsible for violating a University policy, the Hearing Panel may be provided a summary of the incident and the resulting sanctions.
- C. Failure to complete or adhere to sanctions may result in further disciplinary action through the Title IX Office, Office of Student Integrity, or Human Resources.

- D. The following are possible disciplinary sanctions that may be imposed for Students or recommended for Employees when a Respondent is found responsible or accepts responsibility for violating the Sexual Misconduct Policy.
- a. Expulsion/Termination (Dismissal): Permanent, forced withdrawal from the University constitutes the maximum disciplinary penalty.
 - b. Suspension/Administrative Leave: Forced withdrawal from the University for a specified time, including being unable to be on campus. Administrative Leave, for employees, may be unpaid.
 - c. Probation: Notice that any further conduct violation may result in suspension, administrative leave, expulsion, or termination (dismissal). Conduct Probation might include one or more of the following: setting restrictions, issuing a reprimand, or restitution.
 - d. Reprimand: A designated individual (e.g., Title IX Coordinator, Human Resources, supervisor, etc.) to issue an oral or written statement expressing disapproval of behavior to include potential future consequences should there be further conduct violations.
 - e. Coaching/Educational Conversation: A meeting to discuss the behavior, the impact on others, and the ramifications. The discussion will also include how to avoid similar conduct in the future.
 - f. Restrictions: Excluding or limiting participation in University activities, committees, groups, organizations, etc., and excluding or restricting rights such as residence hall visitation, driving or parking on campus, access to University facilities, etc.
 - g. Restitution: Reimbursement for damages to or loss of property.
 - h. Education/Training: Work, service assignments, or other related educational activities.
 - i. Separation: Temporary or Permanent separation of the Parties (e.g., change in classes, reassignment of residence, no contact orders, limiting geography of where Parties can go on campus, etc.)
 - j. Academic penalty (Students Only): Removal from a course where the offense occurred, removal from an academic program or experience, removal or banning from participation in educational activities such as study abroad, or requiring additional academic requirements relating to scholarly work or research. An academic penalty requires approval by the Provost or their designee.
- E. For a sanction of suspension/administrative leave or expulsion/termination (dismissal), it must be clearly articulated in the written decision the substantial evidence relied upon in determining the appropriateness of the sanction. For these procedures, substantial evidence means evidence that a reasonable person might accept to support the conclusion.

Appeal Process

The Parties have the right to appeal a dismissal, the finding of responsible or not responsible, sanctions imposed on Students, sanctions recommended for Employees, and sanctions imposed on Employees. Neither Party can appeal an alternative/informal resolution.

- A. If no appeal is submitted for dismissal, finding of responsible or not responsible, or imposed sanctions, those decisions shall be the University's final decision.
- B. The Title IX Coordinator must receive or be copied on all appellate correspondence for compliance and record-keeping purposes.
- C. In the case of a termination (dismissal) of a faculty member, should either Party wish to appeal the President's final decision, they may be permitted by the Board of Regents Policy on Discretionary Review to request a review by the Board of Regents. In these cases, none of the remaining items in this section are applicable.
- D. An appeal must be submitted in writing and within five (5) business days of the date of the letter notifying the Parties of the dismissal, the finding of responsible or not responsible, sanctions imposed on Students, sanctions recommended for Employees, and sanctions imposed on Employees. The appeal must cite the grounds for the appeal.
- E. If an appeal is submitted, the Title IX Coordinator will notify the other Party of the appeal within five (5) business days of the date of the submitted appeal, including a copy of the submission. That Party may submit a response to the appeal submission in writing within five (5) business days from the date of notification.
- F. Appeals shall be made and considered for the following situations only. The Party must address one of the following in their letter requesting an appeal:
 - a. An alleged procedural error that may have substantially impacted the fairness of the process. Such errors can include, but not limited to whether any hearing questions were improperly excluded or whether the decision was tainted by a conflict of interest or bias by the Title IX Coordinator, Investigator(s), Hearing Panelist(s), Decision Maker(s), Chair, or any individual involved in the Sexual Misconduct grievance process.
 - b. New information that is sufficient to alter the decision, or other relevant facts not brought out in the original investigation (or hearing), because such information was not known or knowable to the Party appealing during the time of the investigation (or hearing)
 - c. The finding of responsible or not responsible and/or the imposed or recommended sanction(s) was inconsistent with the weight of the information.
- G. A Student who is appealing has the right to attend classes and participate in University activities until they are notified of the appeal decision. However, it is reasonable for the Title IX Coordinator to enforce any restrictions in place before the hearing decision.
- H. Human Resources will determine if an Employee should be placed or remain on Administrative Leave pending the outcome of the appeal.

- I. A decision on an appeal may only be rendered once the filing deadline has passed, including the deadline for the other Party to respond to the appeal submission.
- J. Under no circumstances shall the Appellate Officer supplant the function of the Hearing Panel. The appeal shall only be a review of the record, not to re-hear a complaint.
- K. The Appellate Officer is limited to taking one of the following actions on appeals:
 - a. Affirm a dismissal, the finding of responsible or not responsible, sanctions imposed on Students, sanctions recommended for Employees, and sanctions imposed on Employees
 - b. Affirm the finding of responsible or not responsible, but issue new imposed or recommended sanction(s) of greater or lesser severity, or modify the sanction(s) imposed or recommended.
 - c. Remand the case to the Hearing Panel or Decision Maker(s) to correct a procedural or factual defect.
 - d. Reverse or dismiss the case if a procedural or factual defect cannot be remedied by remand.
- L. The Appellate Officer will render a decision no later than seven (7) business days after receiving all materials, barring exigent circumstances. The Appellate Officer's decision will be in writing and include a rationale.
- M. The appeal decision on the finding of responsible or not responsible and/or sanctions imposed on Students shall be the University's final decision on those matters.
- N. If there is an appeal on the recommended sanctions for Employees, Human Resources will be notified and receive a copy of the appeal decision letter. Human Resources will review and consider the recommended sanction(s) and then identify the appropriate next steps. The sanction(s) imposed by Human Resources may or may not be those that were recommended. Human Resources will notify the Title IX Coordinator of the imposed sanctions and the rationale for the sanctions within ten (10) business days of the date of the decision letter. The University shall simultaneously provide both Parties with the imposed sanction(s) and their right to appeal, as outlined in these procedures. If no appeal is submitted by the designated deadline, the imposed sanctions shall be the University's final decision.
- O. If there is an appeal on the imposed sanctions for Employees, Human Resources will be notified and receive a copy of the appeal decision letter. The appeal decision made on the imposed sanction(s) of an Employee shall be the University's final decision.
- P. The Title IX Coordinator shall simultaneously notify all parties of the appeal results within five (5) business days of receiving the decision.
- Q. Should either Party wish to appeal the University's final decision, they may be permitted by the Board of Regents Policy on Discretionary Review to request a review by the Board of Regents. Appeals received after the designated deadlines above will only be considered if the University or Board of Regents has granted an extension before the deadline. The final decision cannot be appealed if an appeal is not received by the deadline.

Time Frame

- A. Efforts will be made to complete the investigation and resolution within 120 business days. Prompt scheduling and timely notice will be given for all meetings.
- B. The University may grant temporary delays and limited extensions for good cause throughout the grievance process. The Parties will promptly and simultaneously be informed in writing of any extension or delay and the applicable reason. Good cause may include considerations such as the absence of a Party, a Party's Advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.
- C. The University shall keep the Parties informed of the status of the investigation.

Training Requirements

- A. Annual training is required for the Title IX Coordinators, Investigators, Hearing Panelists (Decision Makers), Hearing Panel Chair, Appellate Officer, and any person facilitating an alternative or informal resolution process.
- B. The training will include the definitions of Sexual Misconduct, the University's scope and jurisdiction, the entire grievance process (including hearings, appeals, and alternative/informal resolution), and how to serve impartially to avoid conflict of interest or bias. The different roles will receive additional appropriate, specialized training (e.g., conducting an investigation, writing an investigation report, conducting a hearing, relevance of questions and evidence, technology used for live hearing, and managing live questioning during a hearing).
- C. Material used for training must not rely on sex stereotypes and must promote an impartial grievance process.

Other Available Resources

The procedures available under this Policy do not preempt or supersede any legal procedures or Remedies otherwise available to an alleged victim of Sexual Misconduct or other discrimination under federal or state law. Alternately, or in addition to using CSU's internal procedures and/or reporting to local law enforcement, a Student or Employee has the right to file a complaint of Sexual Misconduct with federal and state agencies that investigate discrimination charges. An external complaint must be filed directly with the appropriate agency. The agency also should be consulted concerning any deadlines for filing.

Office for Civil Rights: 1-800-368-1019 or 1-800-537-7697 (TDD callers) or
OCRMail@hhs.gov.

Equal Employment Opportunity Commission: 1-800-669-4000, 1-800-669-6820
(TTY for Deaf/Hard of Hearing callers only), 1-844-234-5122 (ASL Video Phone for
Deaf/Hard of Hearing callers only), or info@eeoc.gov.

Policy Reference

The procedures above are part of the operational implementation of the Columbus State University Sexual Misconduct Policy and comply with that policy.