

**Title IX Sexual Misconduct  
Policy and Procedures**

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Procedures in this document were revised on November 13, 2017 to be in accordance with the Interim Guidance on Campus Sexual Misconduct issued by the US Department of Education, issued on September 22, 2017. These revisions were made with the full understanding that regulatory review is pending.

To report a claim of Sexual Misconduct, please contact:

Kristi Yowell, Associate Vice President for Human Resources  
 Title IX Coordinator  
 301-846-2436  
 kyowell@frederick.edu  
 Suite 223 of Gambrill Hall

# **Title IX Sexual Misconduct Policy and Procedures**

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## **I. Philosophy, Purpose, and Scope**

Frederick Community College (“FCC” or the “College”) has a responsibility to establish and maintain a learning and working environment that is free from sexual misconduct and that respects and protects the dignity and value of every member of the College community.

This Title IX Sexual Misconduct Policy and Procedures has been established for the purpose of ensuring education, prevention, reporting, and response to Title IX sexual misconduct. This Policy and Procedures supersedes and replaces any existing policies or procedures related to sexual misconduct published in any other College documents.

This Policy and Procedures applies to all members of the College community.

This Policy and Procedures applies to sexual misconduct:

- on FCC premises, in any College facility, or on College property
- at any College-sponsored, recognized or approved program, visit, or activity, regardless of location
- that impedes equal access to any College education program or activity
- that adversely impacts the education or employment of a member of the College community
- that otherwise threatens the health and/or safety of a member of the College community

Title IX sexual misconduct is a form of sexual discrimination prohibited by federal and state discrimination laws, including Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act, and is strictly prohibited by FCC.

FCC is required by the Clery Act to keep and disclose information about reportable crime on and near FCC premises, in any College facility, or on College property.

## **II. Definitions for the Purpose of this Policy and Procedures**

- A. “**Administrative action**” refers to interim or other measures taken by FCC at the beginning of an investigation or that are in place during an investigation under the National Science Foundation (NSF) term and condition on Notification Requirements Regarding Sexual Harassment, Other Forms of Harassment, or Sexual Assault.
- B. “**Administrative leave**” refers to any temporary/interim suspension or permanent removal of the Principal Investigator (PI) or Co-Principal Investigator (Co-PI) by FCC under FCC policies or codes of conduct, statutes, regulations, or executive orders, relating to activities, including but not limited to teaching, advising, mentoring, research, management/administrative duties, or presence on campus under the NSF term and condition on Notification Requirements Regarding Sexual Harassment, Other Forms of Harassment, or Sexual Assault.
- C. “**Advisor**” refers to any individual who provides the complainant or respondent support, guidance, or advice at any Title IX meeting or proceeding related to the party

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being advised. The Advisor cannot be a fact witness or provide statements in the proceedings. The Advisor is a non-participant who is present to assist a complainant or respondent by taking notes or providing emotional support and reassurance.

- D. **“Clery Act”** refers to the federal law which requires public and private higher education institutions participating in federal student aid programs to disclose college safety information and to impose basic requirements for handling incidents of sexual violence and emergency situations.
- E. **“Coercion”** refers to conduct, intimidation, and express or implied threats of physical or emotional harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to persuade or compel someone to engage in sexual contact. Examples of coercion include causing the deliberate incapacitation of another person; conditioning an academic benefit or employment advantage on submission to the sexual contact; threatening to harm oneself if the other party does not engage in sexual contact; or threatening to disclose an individual’s sexual orientation, gender identity, gender expression, or other personal sensitive information if the other party does not engage in the sexual contact.
- F. **“College community”** refers to trustees, students, and all employees of the College as well as any independent contractors or other third parties to the extent articulated under contractual agreements.
- G. **“College-sponsored activity”** refers to any activity that is initiated, authorized, or supervised by the College, or that involves representation of the College.
- H. **“Consent”** refers to a knowing, voluntary and affirmatively communicated willingness to participate in a particular sexual activity or behavior. Only a person who has the ability and capacity to exercise free will and make a rational, reasonable judgment can give consent. Consent may be expressed either by words and/or actions, as long as those words and/or actions create a mutually understandable agreement to engage in specific sexual activity. It is the responsibility of the person who wants to engage in sexual activity to ensure that they have consent from the other party, and that the other party is capable of providing consent.
- Lack of protest or resistance is not consent. Silence, in and of itself, cannot be interpreted as consent. For that reason, relying solely on non-verbal communication can lead to misunderstanding.
  - Previous relationships, including past sexual relationships, do not imply consent to future sexual acts.
  - Consent to one form of sexual activity does not automatically imply consent to other forms of sexual activity.
  - Consent must be present throughout sexual activity and may be withdrawn at any time. If there is confusion as to whether there is consent or whether prior consent has been withdrawn, it is essential that the participants stop the activity until the confusion is resolved.

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- Consent cannot be obtained by use of physical force, threats, intimidating behavior, or coercion.
- I. **“Complainant”** refers to an individual who makes a complaint that a violation of sexual misconduct has occurred.
- J. **“Exculpatory evidence”** refers to evidence tending to establish one was not involved in a sexual misconduct violation.
- K. **“Incapacitated”** refers to a person’s decision-making ability being impaired such that they lack the capacity to understand the “who, what, where, why or how” of their sexual interaction. Incapacitation may result from: sleep or unconsciousness, temporary or permanent mental or physical disability, involuntary physical restraint, or the influence of alcohol, drugs, medication, or other substances used to facilitate sexual misconduct.
- L. **“Inculpatory evidence”** refers to evidence tending to show one was involved in a sexual misconduct violation.
- M. **“Legal Counsel”** refers to legal representation selected from the Maryland Higher Education Commission (MHEC) list of attorneys and legal services programs that a student alleging or responding to a violation of the Title IX Sexual Misconduct policy may select and retain, paid for by MHEC; or an attorney not on the MHEC list, with fees paid equivalent to those paid to attorneys on the MHEC list.
- N. **“Notification”** refers to written hard copy delivered by US certified mail, restricted delivery, or overnight carrier signature required, delivery confirmed.
- O. **“Personal counseling”** refers to College-based services to assess and make referrals when assisting students in managing psychosocial stresses as crisis intervention services are provided.
- P. **“Preponderance of the evidence”** refers to evidence which is of greater weight or more convincing than the evidence to the contrary; evidence which shows that something is more likely than not to be true or 50.1% likely to have occurred.
- Q. **“Respondent”** refers to an individual who has been accused of violating the sexual misconduct policy.
- R. **“Responsible employee”** refers to all College trustees and all full and part-time employees of the College, including but not limited to administrators, supervisors, faculty, adjunct faculty, support staff, safety and security staff, coaches, or trainers. Responsible employees have the authority or duty to report sexual misconduct, or whom a student could reasonably believe has such authority or duty.
- S. **“Secured College tracking system”** refers to the official College system used to record and track reports of student violations of prohibited conduct and concerning behavior. The secured College tracking system contains documentation of reported

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violations, interventions, resolutions, and appeals. The Title IX Coordinator is responsible for the oversight and management of reported Title IX sexual misconduct violations in the secured College tracking system.

- T. **“Sexual misconduct”** refers to a broad term used to define acts of sexual assault; sexual exploitation; sexual harassment; intimidation; stalking; dating, domestic, or intimate partner violence; or retaliation. Sexual misconduct can be committed by a person of any sex or gender identification, and it can occur between people of the same or different sex or gender identification.
- **“Sexual assault”** refers to a form of sexual violence toward another individual without their consent. Maryland criminalizes both rape and “sexual offenses,” which some states call sexual assault. Rape has two degrees or levels of offenses, while sexual offenses are divided into four degrees of offensive sexual activity. In general, criminal penalties in Maryland vary by degree based on “aggravating” factors (showing maliciousness and increasing guilt and punishment). Some of the aggravating factors are using force or violence, displaying weapons to a victim, or if the victim is particularly young or elderly.
  - **“Sexual exploitation”** refers to defined as taking non-consensual or abusive sexual advantage of another person without consent. Sexual exploitation can include (but is not limited to) sexual voyeurism, taking photos and audio or videotaping someone.
  - **“Sexual harassment”** refers to: (a) unwelcome sexual advances; (b) unwelcome requests for sexual favors; or (c) other behavior of a sexual or gender-based nature where: (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, evaluation of academic work, or participation in a college-sponsored educational program or activity; (ii) submission to or rejection of such conduct by an individual is used as the basis for an academic, employment, or activity or program participation decision affecting that individual; or (iii) such conduct has the purpose or effect of unreasonably interfering with an individual’s academic or work performance, i.e., it is sufficiently severe or pervasive to create an intimidating, hostile, humiliating, demeaning or sexually offensive working, academic, or social environment.
  - **“Sexual intimidation”** refers to threatening behavior of a sexual nature directed at another person, such as threatening to sexually assault another person or engaging in indecent exposure.
  - **“Stalking”** refers to repeated, unwanted attention; physical, verbal, or electronic contact; or any other course of conduct directed at an individual that is sufficiently serious to cause physical, emotional, or psychological fear or to create a hostile, intimidating, or abusive environment for a reasonable person in similar circumstances and with similar identities. Stalking may involve individuals who are known to one another or who have a current or previous relationship or may involve individuals who are strangers.
  - **“Dating, domestic, or intimate partner violence”** refers to the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior against another person.

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- **“Retaliation”** refers to intimidating, threatening, coercing, or discriminating against an individual for the purpose of interfering with any right or privilege secured by law or College policy relating to sexual misconduct, or because an individual has made a report, filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding related to sexual misconduct. Retaliation includes retaliatory harassment.
- U. **“Student”** refers to an individual who is registered at the College, either full or part-time, in a credit or continuing education class or classes who has either paid or made arrangement for payment of tuition and/or fees at the time of the alleged incident.
- V. **“Title IX Coordinator”** refers to the individual designated by the President of the College to: 1) oversee the College response to sexual misconduct reports and complaints, and identify and address any patterns or systemic problems revealed by such reports and complaints; 2) coordinate, conduct, and/or delegate sexual misconduct investigations; 3) oversee, review content, and, in collaboration with other College offices, develop the training plan, and conduct training for all responsible employees on sexual misconduct issues; 4) ensure that appropriate policies and procedures are in place for responding to complaints of sexual misconduct against faculty, staff, and students; 5) work with local law enforcement to ensure coordinated responses to sexual misconduct cases; and 6) maintain accurate documentation and logs related to the Maryland Higher Education Commission reports.

The Title IX Coordinator is responsible for receiving all reports of sexual misconduct and maintaining all records related to Title IX sexual misconduct. Sexual misconduct records for students are maintained in the secured College tracking system. Sexual misconduct records for employees are maintained by the Title IX Coordinator in the Human Resources Office.

The Title IX Coordinator who has been designated by the President is:

Associate Vice President for Human Resources  
Suite 223 of Gambrill Hall  
Frederick Community College  
301-846-2436

If necessary, the President will designate an alternate individual who is qualified to serve as Title IX Coordinator.

- W. **“Title IX Council”** refers to a group comprised of the Vice President for Learning Support (Chair); the Provost/Executive Vice President for Academic Affairs, Continuing Education, and Workforce Development; the Executive Director of Diversity, Equity, and Inclusion; the Executive Director for the Center for Student Engagement; and the Executive Director of Counseling and Advising (who also serves as the Chair of the Behavioral Evaluation and Response Team), or their designees. The Title IX Council serves as a hearing panel for complainant or respondent appeals of findings or sanctions imposed after a Title IX investigation. The Title IX Council regularly convenes to monitor the compliance and

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implementation of Title IX policies and procedures (including the Violence Against Women Reauthorization Act) and the education and prevention initiatives related to Title IX. The Council regularly participates in Title IX workshops and trainings both locally and nationally.

- X. **“Title IX Proceeding”** refers to all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact finding investigations, formal or informal meetings, and hearings. Proceeding does not include communications and meetings between officials and complainants concerning accommodations or protective measures to be provided to a complainant.
- Y. **“Workdays”** refers to Monday through Friday and does not include weekends, holidays, scheduled breaks, or other days the College is closed.

### **III. Training, Education, and Prevention**

FCC is committed to educating the College community regarding the prevention and elimination of sexual misconduct. Creating an environment free from sexual misconduct is the responsibility of all members of the College community. The College is committed to fostering a campus climate free from sexual misconduct through training, education, and prevention programs, and through policies and procedures that promote prompt reporting, prohibit retaliation, and promote timely, fair, and impartial investigation and resolution of sexual misconduct cases.

- A. Preventing sexual misconduct begins with effective training. All employees will have completed Title IX training by November 30 of each year or within three weeks of their hire date and are required to update their training every year. Additional mandatory trainings are arranged by the Title IX Coordinator/Associate Vice President for Human Resources for all faculty and staff who serve as Title IX Council Members or individuals who may assist in Title IX investigations.
- B. The name, office address, and phone number of the Title IX Coordinator is posted on bulletin boards throughout the College, on the College website, and in College publications, including the Student Handbook.
- C. To ensure that students understand their rights and responsibilities under Title IX, the College provides awareness, knowledge and skill-building workshops, and events organized by the Center for Student Engagement. Specific education on alcohol and drug abuse, sexual assault, and dating violence is provided. These events are offered in a variety of formats throughout the year and are posted on the Co-Curricular Calendar. These events include, but are not limited to:
  - National Collegiate Drug and Alcohol Awareness Month Programming occurs each October and provides information, workshops, films, and social events designed to help students understand high-risk behaviors and how to make wise choices.

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- National Health and Wellness Month Programs run throughout March and April and include experts from local agencies sharing health and safety tips including sexual assault prevention and education and bystander intervention and training.
  - The Center for Student Engagement offers monthly events independently or cosponsored by College clubs and organizations that feature speakers addressing topics such as sexual assault, anti-bias, and sexual harassment as part of co-curricular programming.
  - Sexual Assault Awareness Month occurs each April. The College offers a series of workshops and events such as Bystander Training.
  - College committees and workgroups lead or participate in the development of ongoing New Student Orientation, Convocation, and other student programs.
  - Table-top information fairs are offered that direct students to College resources and services.
  - Title IX brochures are available and posted for students describing College and community resources, confidential services, and support for students who deal with sexual abuse and violence.
  - Clery Act data is posted on our website in the [Annual Safety and Security Report](#), which is updated in October of each year.
  - A [dedicated webpage](#) with resource information and relevant links will be posted on the College website.
  - The College will offer online Title IX training for all students through Safe Colleges.com. Certificates of completion will be issued.
- D. The Associate Vice President/Dean of Students is responsible for the development of the Student Training/Education/Prevention plan (in coordination with other College offices) and oversight of education, training, and prevention programs on Title IX sexual misconduct for students.
- E. The Title IX Coordinator is responsible for the development of the Training/Education/Prevention plan (in coordination with other College offices) and oversight of education, training, and prevention programs on Title IX sexual misconduct for employees, including safety and security staff. In compliance with Title II of the Crime Awareness and Campus Security Act of 1990, the College provides information related to crime statistics and security measures to current students and employees, and to any applicant and registrant for enrollment or applicant for employment upon request. Crime statistics are available on the College website at <http://www.frederick.edu/faculty-staff/campus-security.aspx>.

### **IV. Confidentiality**

The College recognizes the importance of confidentiality. All reasonable efforts will be made to ensure the confidentiality of information received to protect the complainant, respondent, and the College community.



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If a person requests that their name not be disclosed or that the College not investigate or take action related to a report of sexual misconduct, the Title IX Coordinator will determine whether or not such a request can be honored while still providing a safe and nondiscriminatory environment for all students, faculty, and staff.

Confidentiality does not apply to minors (under the age of 18). State mandatory reporting laws require responsible employees to report child neglect and abuse that is suspected, observed, or in some cases, learned about through a third party, to the local department of social services or to a local law enforcement agency.

### **V. Reporting**

All members of the College community should promptly report sexual misconduct in order to maximize the ability of the College to obtain evidence, identify potential witnesses, conduct a thorough, prompt, and impartial investigation, and take prompt corrective action. A delay in reporting may result in the loss of relevant evidence and witness testimony, impairing the ability of the College to respond and take appropriate action.

- A. Any person who believes they have been a victim of sexual misconduct or any person who has observed or learned about an incident of sexual misconduct should report the incident immediately to the Title IX Coordinator or any responsible employee of the College. If any person believes a crime has been committed, it should also be reported to law enforcement.
- B. If requested, the Title IX Coordinator will provide prompt assistance in notifying the appropriate law enforcement officials in collaboration with the College Security office. In cases of sexual misconduct, individuals will be informed of their right to file criminal charges with the appropriate law enforcement official. The Frederick Police Department is located at 100 W. Patrick Street, Frederick, Maryland 21701, and the phone number is (301) 600-2101. Responsible employees are required to promptly notify the Title IX Coordinator of any reports of sexual misconduct brought to their attention. The Title IX Coordinator works collaboratively with the reporting party and any other responsible employees needed in responding to the alleged victim, making every effort to operate with discretion and maintain the privacy of the individuals involved.
- C. Reports of sexual misconduct in violation of this Policy and Procedures may require interim measures to protect the safety and well-being of the parties and/or the College community pending the outcome of the investigative and adjudicative processes. The College will respond with all necessary measures to ensure the safety and security of all persons involved in any report of sexual misconduct.
- D. The College will be as thorough as possible in the assessment and investigation of anonymous reports.
- E. Any student who reports to the College or a law enforcement officer an incident of sexual assault, and/or participates in good faith as a witness in an investigation of a

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sexual assault will not be subject to the College [Alcohol, Tobacco, Opioid, and Other Drug Use and Awareness Policy and Procedures](#), except for:

1. a mandatory intervention for substance abuse, if the College determines that the violation occurred during or near the time of the alleged sexual assault; and
  2. if the College determines that the alcohol or drug violation was not an act that was reasonably likely to place the health or safety of another individual at risk.
- F. Individuals who engage in retaliatory behavior against a reporting party or party participating in an investigation are in violation of this Policy and Procedures and will be subject to appropriate disciplinary action. Individuals who believe they have experienced retaliation in violation of this Policy and Procedures should immediately report such conduct to the Title IX Coordinator.
- G. The College condemns the deliberate filing of false reports of sexual misconduct. If a person is found to have deliberately filed a false accusation, they will be subject to disciplinary measures in accordance with prescribed policies and procedures governing student or employee behavior. A report of sexual misconduct that is made in good faith, but is found to not be supported by the preponderance of the evidence, will not be considered a false report.

### **VI. Response**

- A. Upon notification and awareness of allegations of sexual misconduct, the College will take immediate safety and security measures and appropriate action to assess, and/or investigate what occurred.
1. This obligation applies to sexual misconduct covered by this Policy and Procedures regardless of whether a parallel law enforcement investigation or action is pending.
  2. The Title IX Coordinator collaborates with the College Security office to inform the Local Law Enforcement agency, in accordance with the Memorandum of Understanding between the College and the Frederick Police Department, to report incidents of sexual assault.
- B. The College is committed to responding appropriately to all complaints of sexual misconduct and to ensuring the safety and security of all persons involved. The College is committed to determining whether a hostile environment has been created that must be redressed. Such action does not preclude the respondent from their right to receive notice of the alleged offense, explanation of the available evidence, and an opportunity to respond. The standard of evidence which shall be used by the College to adjudicate all charges of sexual misconduct shall be the preponderance of the evidence.

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- C. The College has established procedures for the immediate assessment and/or investigation of all Title IX sexual misconduct complaints and for steps to take following any instances of sexual misconduct. Procedures are under Sections IX and X of this document.
- D. As permitted by law, the College will notify the parties concurrently in writing about the outcome of the assessment or investigation and whether or not sexual misconduct was found to have occurred.
- E. When the Title IX Sexual Misconduct Policy is violated, the College will take prompt and effective steps to end the sexual misconduct, prevent its recurrence, and address its effects. The College will respond to reported incidents of sexual assault by ensuring the opportunity for complainants to obtain the appropriate medical attention and transportation to the nearest designated hospital (Frederick Memorial Hospital) with the Department of State Police Sexual Assault Evidence Collection Kits.
- F. Both parties are provided access to personal counseling through the College Counseling and Advising Office. The College provides access to mental health services through referrals, in accordance with the Memorandums of Understanding between the Mental Health Association of Frederick County and the Heartly House Incorporated, when services extend beyond the scope of the Counseling and Advising Office. In addition to providing counseling or taking immediate steps to protect the College community prior to any final investigative outcomes, effective corrective action may require interim measures.
- G. Both parties will be advised of potential interim measures that may include, but are not limited to, the alteration of class/course schedules (including transfer to another section), permission to withdraw from and/or retake a class, permission to attend a class via alternative means (e.g., online or through independent study), the extension of assignment deadlines, voluntary leaves of absence, changes in work schedules, job assignments, and work locations, prohibited contact, and providing academic support services if such alternatives are feasible. Remedies for the broader student population extend beyond training, education, and prevention efforts already provided to include, but would not be limited to: designation of a member of the counseling staff to be on call and conduct climate checks.
- H. As a condition of acceptance of grant awards originating from the NSF, the College will promptly notify NSF if the Principal Investigator (PI) or Co-Principal Investigator (Co-PI) on an NSF-funded project is placed on administrative leave while under investigation for a possible violation of this Policy and Procedures.

### **VII. Sanctions**

- A. Employees and students found in violation of this Policy and Procedures are subject to disciplinary action ranging from a disciplinary warning up to and including separation from employment or expulsion.

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- B. As a condition of acceptance of grant awards originating from the NSF, the College will promptly notify NSF if any administrative action is imposed on the PI or Co-PI on an NSF-funded project related to any finding/determination or an investigation of an alleged violation of this Policy and Procedures.
- C. Persons who commit sexual misconduct in violation of federal, state, or local law may also be subject to criminal charges and penalties.
- D. Outcomes of an investigation and resulting sanctions may be appealed in accordance with College established Title IX sexual misconduct procedures or other applicable College appeal procedures.

### **VIII. Resources Available**

Students or others who are not sure whether they want to make a report should still seek help from the resources listed. These resources are provided to offer support and information.

**Title IX Sexual Misconduct  
College and Community Resources  
In Case of an Emergency on Campus  
College Security**

Call 4444 from a main campus phone or a Monroe Center office phone  
or 301.846.2453 from any other phone

**Confidential Resources to Discuss Sexual Misconduct**

Frederick County Hotline  
A service of the Mental Health Association of Frederick County  
24/7 Information and Referral for Crisis Intervention  
Call 211 or 866-411-6803  
[www.211md.org](http://www.211md.org)

Nearest hospitals equipped with the Department of State Police  
Sexual Assault Evidence Collection Kit  
Frederick Memorial Hospital  
240-566-3300  
Carroll Hospital  
410-848-3000

Heartly House - Crisis Hotline  
301-662-8800  
[www.Heartlyhouse.org](http://www.Heartlyhouse.org)

Maryland Coalition Against Sexual Assault (MCASA)  
410-974-4507  
[www.mcasa.org](http://www.mcasa.org)

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### National Sexual Assault Hotline

A free and confidential 24/7 hotline for incidents occurring outside of Maryland  
1-800-656-HOPE (4673)

### Rape, Abuse and Incest National Network (RAINN)

24/7 support  
1-800-656-HOPE (4673)  
[www.rainn.org](http://www.rainn.org)

### Sexual Assault Legal Institute (SALI)

1-877-496-SALI (7254)

### **For Guidance in Filing a Complaint**

FCC Title IX Coordinator  
Associate Vice President for Human Resources, 301-846-2436  
Suite 223 of Gambrill Hall

AVP/Dean of Students  
Jerry Haynes, 301-846-2459

Executive Director of Diversity, Equity, and Inclusion  
Beth Douthirt Cohen, 301-624-2711

### **For Information on Programs and Training**

Executive Director, Center for Student Engagement  
Jeanni Winston-Muir, 301-846-2489

## **IX. Procedures for Filing a Title IX Sexual Misconduct Complaint**

### **Filing a Complaint**

Any person who believes they have been a victim of sexual misconduct or any person who has observed or learned about an incident of sexual misconduct should report the incident immediately to the Title IX Coordinator, 7932 Opossumtown Pike, Frederick, MD 21702, Suite 223 of Gambrill Hall, 301-846-2436, or any responsible employee.

Prompt reporting is encouraged to maximize the ability of the College to obtain evidence, identify potential witnesses, and conduct a thorough, prompt, and impartial investigation.

The College recognizes the importance of confidentiality. All reasonable efforts will be made to ensure the confidentiality of information received to protect the complainant, respondent, and the College community.

If a person requests that their name not be disclosed or that the College not investigate or take action related to a report of sexual misconduct, the Title IX Coordinator will determine and document whether or not they can honor such a request while still providing a safe and nondiscriminatory environment for all students, faculty, and staff.

### **Assessment**

The Title IX Coordinator will conduct an immediate assessment of the reported Title IX sexual misconduct. The complainant will be asked to document in writing the nature of the complaint. If the complainant is not willing or able to submit the complaint in writing,

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notes taken by the Title IX Coordinator during the assessment may be used in lieu of a written complaint. Interim measures shall be taken to ensure the safety and security of any individuals involved.

The Title IX Coordinator will conduct an initial meeting with the complainant and inform them of on- and off-campus resources, student rights, informal procedural options, immediate safety and security measures, and the College policy prohibiting retaliation. The complainant shall be informed by the Title IX Coordinator of the importance of preserving evidence. An assessment will be completed within three (3) workdays of receiving a report of sexual misconduct and the complaint will be documented appropriately. The assessment will determine if an informal or formal resolution is appropriate.

### **Student Rights**

Rights of students alleging or responding to a violation of the Title IX Sexual Misconduct Policy and Procedures include:

- Treatment with dignity, respect, and sensitivity by officials of the College during all phases of the disciplinary proceedings;
- A fair and impartial investigation;
- Disciplinary proceedings and resolutions that are prompt and equitable and provide an opportunity for the alleged complainant and respondent to be heard;
- Timely written notice of specified matters, including the student's rights and responsibilities under the Title IX Sexual Misconduct Policy and Procedures, information regarding other civil and criminal options, and the range of potential sanctions associated with the alleged violation;
- Participation in the disciplinary proceedings, including access to the case file and evidence;
- Assistance by a licensed attorney, an advocate supervised by an attorney, or a trained advocate throughout the disciplinary proceedings, as specified; and
- The presence of no more than two people, including a personal supporter of the student's choice, an attorney, or an advocate at any hearing, meeting, or interview during the disciplinary proceedings.

### **Informal Resolution**

Upon completion of the assessment, if the Title IX Coordinator determines that informal resolution is appropriate and an investigation is not warranted, the Title IX Coordinator may be able to resolve the complaint informally. All parties must voluntarily agree to participate in an informal resolution that does not involve a full investigation and adjudication after receiving a full disclosure of the allegations and their options for formal resolution. Should a satisfactory resolution be reached, the matter will be considered closed. All informal resolutions will be appropriately documented. If no investigation is warranted, the identity of the respondent will not be recorded. If either party requests an investigation, the process moves to formal resolution.

### **Formal Resolution**

If an informal resolution is not reached, the assessment determines that an investigation of the complaint as a Title IX violation is warranted, or either party requests an investigation, the College will move to a formal resolution process, which includes an investigation. Any investigation requires an explanation of the basis for the

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determination. The Title IX Coordinator will coordinate the formal resolution process. The College will initiate a prompt, thorough, and impartial investigation conducted by an Investigator. When necessary, law enforcement will be involved.

The complainant and respondent will be notified within five (5) workdays of the College decision to initiate an investigation and they will be informed of the process that will be used.

### **X. Procedures for Investigations and Appeals**

#### **Retention of Legal Counsel**

A student may select and retain an attorney prior to the conclusion of the formal Title IX proceedings.

#### **Investigation**

The College will seek to conclude the investigation within thirty (30) workdays of receipt of the written complaint from the complainant or (in the absence of a written complaint) the date of the determination by the Title IX Coordinator that an investigation is warranted following the assessment. Extended time for investigations may be necessary, in which case both parties will be notified and the reason for the delay will be provided.

#### **Investigative Process**

A notice of investigation will be delivered to all parties which contains the identities of the parties involved, the specific section of the code of conduct allegedly violated, the precise conduct allegedly constituting the potential violation, the date and location of the alleged incident, the range of potential disciplinary sanctions, and/or administrative and other remedies. Each party should receive written notice in advance of any interview or hearing allowing five (5) workdays to prepare for meaningful participation.

Consideration will be given to a request for an extended timeline and both parties will be notified. Along with the notice of investigation, the complainant and respondent will receive a notice of rights and responsibilities. Upon receipt of the notice of investigation, or at any stage in the process, the respondent may choose to accept responsibility for the Policy violation.

During the investigation, the complainant and respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. The Title IX Coordinator conducts the investigation or delegates the investigation to a designee. The Title IX Coordinator will speak separately with the complainant, the respondent, and any other individuals who are willing to participate and have information relevant to the investigation. The Title IX Coordinator may gather or receive information that is relevant, including information about the impact of the alleged incident on the parties. The Title IX Coordinator will also gather any available physical or documentary evidence, including inculpatory and exculpatory evidence. This may include prior statements by the parties or witnesses, any communications between the parties, email messages, social media materials, text messages, and other records as appropriate and available. Members of the College community are expected to cooperate with the investigation.

At the conclusion of the investigation, the Title IX Coordinator will prepare a draft written report that summarizes the relevant inculpatory and exculpatory evidence and

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synthesizes the areas of agreement and disagreement between the parties with any supporting information or accounts. Prior to finalizing the investigation report, the Title IX Coordinator will, by written notice, provide the complainant and respondent an opportunity to review the draft investigation report.

The complainant and respondent may submit in writing any additional comments or information to the Title IX Coordinator within five (5) workdays of being provided the draft investigation report for review. This is the final opportunity for the parties to identify any additional information or witnesses and review their statements for accuracy. Should extenuating circumstances exist, consideration will be given to a request for an extended timeline and both parties will be notified. After the five-day opportunity for both parties to review the draft investigation report, the Title IX Coordinator will submit the final investigation report within five (5) workdays of receiving all additional comments or information. Extended time for completing the report may be necessary, in which case both parties will be notified. The final investigation report will incorporate any additional information provided by both parties. The final investigation report will be provided to the appropriate College employee(s) for a decision based on the nature of the complaint as follows:

- For complaints involving only employees: The complaint shall be reported to the supervising Associate Vice President or Senior Leader, or their designees; if the complaint is against the Senior Leader, to the President; if the complaint is against the President, to the Vice President for Human Resources and the Chair of the Board of Trustees.
- For complaints involving only students: The complaint shall be reported to the AVP/Dean of Students; if the complaint is against the AVP/Dean of Students, to the Senior Leader, or their designees.
- For complaints involving both a student and an employee: The complaint shall be reported to the supervising Associate Vice President or Senior Leader, or their designees, and the AVP/Dean of Students; if the complaint is against the Senior Leader, to the President; if the complaint is against the President, to the Vice President for Human Resources and the Chair of the Board of Trustees.

### **Decision/Sanctions**

After reviewing the final investigation report, and meeting with the complainant and respondent separately, the appropriate College employee(s) will make a decision as to whether there has been a violation of the Title IX Sexual Misconduct Policy. If a party fails to respond to a request for the meeting with the appropriate College employee, the College employee will make a decision based on the evidence before them. The decision will be based upon a preponderance of the evidence and sanctions will be imposed, if warranted.

For proceedings covered by the Clery Act (sexual assault, stalking, or dating, domestic, or intimate partner violence), simultaneous written notification shall be provided to both parties. This notification must include any final decision by the institution; any sanctions imposed by the institution; and the rationale for the result and the sanctions. It must also include notification of the College procedures to appeal the result or sanctions.



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For proceedings not covered by the Clery Act, such as those arising from allegations of harassment, the College shall notify the complainant whether it found that the alleged conduct occurred, of any individual remedies offered to the complainant, or any sanctions imposed on the respondent that directly relate to the complainant, and other steps the College has taken to eliminate the hostile environment, if the College found one to exist. The respondent shall be notified whether the College found that the alleged conduct occurred, what sanctions will be imposed, if any, and the rationale for the result and the sanctions. Both parties shall be notified of their right to appeal.

Both the complainant and the respondent will be notified in writing within five (5) workdays of receipt of the final investigation report. Extended time for decision may be necessary, in which case both parties will be notified.

### **Appeals**

The complainant as well as the respondent have the right to request a hearing with the Title IX Council to appeal the decision and/or the imposition of sanctions for Title IX sexual misconduct violations. Appeals shall be submitted in writing by email, hard copy, or US certified mail and must be received by the Title IX Coordinator within five (5) workdays of the decision/sanctions.

### **Appeal Hearing Procedures for the Title IX Council**

The Title IX Council shall conduct a hearing on all appeals of decisions/sanctions related to Title IX sexual misconduct. The hearing shall be closed to the public and will be recorded or transcribed. Failure of the individual who requested the appeal to appear for the hearing, without prior notification or evidence of extenuating circumstances, waives their right for further appeal and the decision and sanctions will stand.

Those present at the hearing shall be limited to the complainant and respondent, other individuals with personal knowledge of relevant facts who will be presented as witnesses, and persons contractually engaged by the College for the purposes of the hearing (e.g., transcriptionists, medical doctor, etc.). The complainant and/or respondent may also be accompanied by one advisor of their choice.

The Title IX Council may meet separately with each party in a session that will be closed to the other party. At that time each party may present an oral argument. The Title IX Council will meet with available witnesses in sessions, which will be closed to the parties.

After consideration of all relevant information, the Title IX Council will make its own determination by a preponderance of the evidence. The Title IX Council may affirm, modify, or reject the decision/sanctions regarding the policy violation, and/or return the outcome to the Title IX Coordinator to conduct additional investigation before completing its review. All Title IX Council decisions require a majority vote and shall be accompanied by an explanation of the rationale for the decision of the Title IX Council.

The Title IX Council will have five (5) workdays after the conclusion of the hearing to make a determination as to whether to affirm, modify, or reject the decision/sanctions of the Title IX sexual misconduct. In the event the Title IX Council requests additional investigation, the five (5) day timeline may be extended by the Title IX Coordinator to accommodate any additional investigation and reconsideration by the Title IX Council, as needed, and both parties will be notified.

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The Title IX Council shall issue its determination to the Title IX Coordinator. The Title IX Coordinator will then issue a written formal notice of the Title IX Council decision to both parties, separately and simultaneously. The notice of the Title IX Council decision on the appeal shall include a reference to the specific prohibited conduct at issue, a summary of the investigation and the Title IX Council stated rationale for its decision regarding the appeal of the decision/sanctions. Copies of the notice of the Title IX Council decision will be sent to the appropriate supervisor, department chair or unit head, Dean, and Provost or designee, and other administrators as necessary on a need-to-know basis.

For proceedings covered by the Clery Act (sexual assault, stalking, or dating, domestic, or intimate partner violence), simultaneous written notification shall be provided to both parties. This notification must include any final decision by the institution; any sanctions imposed by the institution; and the rationale for the result and the sanctions. It must also include notification of the College procedures to appeal the result or sanctions.

For proceedings not covered by the Clery Act, such as those arising from allegations of harassment, the College shall notify the complainant whether it found that the alleged conduct occurred, of any individual remedies offered to the complainant, or any sanctions imposed on the respondent that directly relate to the complainant, and other steps the College has taken to eliminate the hostile environment, if the College found one to exist. The respondent shall be notified whether the College found that the alleged conduct occurred, what sanctions will be imposed, if any, and the rationale for the result and the sanctions. Both parties shall be notified of their right to appeal.

### **Appeal of the Title IX Council Decision**

If either party wishes to appeal the decision of the Title IX Council, they may do so to the College President. Appeals shall be submitted in writing by email, hard copy or US certified mail and must be received by the Human Resources office, 7932 Opossumtown Pike, Frederick, MD 21702, Suite 223 of Gambrill Hall, within five (5) workdays of the notification of the Title IX Council decision. The President will consider the appeal based on one of the following grounds:

1. The Title IX Council did not adhere to the prescribed procedures.
2. The decision reached by the Council did not meet the standard of preponderance of evidence.
3. A claim that new evidence or facts should be considered that were unknown and/or unavailable at the time of the Title IX Council decision.
4. Evidence that bias existed.

An employee may appeal the Title IX sexual misconduct decision/sanctions in writing through the applicable College grievance procedure. All appeals shall be submitted to the Human Resources office, 7932 Opossumtown Pike, Frederick, MD 21702, Suite 223 of Gambrill Hall, within five (5) workdays of the decision/sanctions. The Title IX Coordinator will refer the appeal to the appropriate grievance/appeal procedure.

The College will continue to take interim preventative measures to ensure the safety and security of all parties involved during the pendency of the appeal.

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### **Final Outcome Notice**

After the decision and sanctions become final and all appeals, if any, are exhausted, the Title IX Coordinator shall issue a written final outcome notice to both parties, separately and simultaneously. Issuance of the final outcome notice completes the investigation and adjudication of the complaint under this Policy and Procedures.

For proceedings covered by the Clery Act (sexual assault, stalking, or dating, domestic, or intimate partner violence), simultaneous written notification shall be provided to both parties. This notification must include any final decision by the institution; any sanctions imposed by the institution; and the rationale for the result and the sanctions. It must also include notification of the College procedures to appeal the result or sanctions.

For proceedings not covered by the Clery Act, such as those arising from allegations of harassment, the College shall notify the complainant whether it found that the alleged conduct occurred, of any individual remedies offered to the complainant, or any sanctions imposed on the respondent that directly relate to the complainant, and other steps the College has taken to eliminate the hostile environment, if the College found one to exist. The respondent shall be notified whether the College found that the alleged conduct occurred, what sanctions will be imposed, if any, and the rationale for the result and the sanctions. Both parties shall be notified of their right to appeal.

### **XI. Records**

All records pertaining to Title IX sexual misconduct involving students are maintained by the Title IX Coordinator using the secured College tracking system. The Director of College Safety and Emergency Preparedness submits the Clery Act Report and maintains Clery Act records. The Title IX Coordinator is responsible for maintaining records relating to sexual misconduct, investigations, and resolutions. Records shall be maintained in accordance with the College Records Retention Policy and Procedures.