



**PimaCountyCommunityCollegeDistrict
Administrative Procedure**

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AP Title: **Discrimination, Harassment, and Retaliation – Prevention and Complaint Procedures**

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<i>Board Policy Title & No.:</i>	Prevention of Discrimination, Harassment, and Retaliation, BP 5.10
<i>Legal Reference:</i>	Title VI & VII of the 1964 Civil Rights Act; Title IX and 34 CFR 106, <i>et seq.</i> ; ARS 41-1401, <i>et seq.</i> ; ADA and Section 504; A.R.S. § 15-2301, A.R.S. § 13-1215, A.R.S. § 13-1216
<i>Cross Reference:</i>	Student Complaints, AP 3.31.01; Nondiscrimination of Students on the Basis of Disability - Academic Adjustments and other Accommodations, AP 3.46.03; Complaint Procedures for Students with Disabilities, AP 3.46.06; Employee Handbook; Student Code of Conduct; ODR Complaint Processes

SECTION 1: Purpose

- 1.1 Pima Community College (“College”) is an equal opportunity, affirmative action institution.¹ The College does not discriminate on the basis of race, color, religion or irreligion, ethnicity, national origin, age, sex (including pregnancy), disability (actual or perceived), sexual orientation, gender identity or expression, veteran or military status, genetic information (including family medical history), or any other unlawful basis.
- 1.2 The College is committed to maintaining a safe and equitable workplace and educational environment in which no member of the College Community is denied full access to the College’s educational programs and services or employment opportunities because of unlawful discrimination or harassment. The College will not tolerate unlawful discrimination or harassment of any kind against any member of the College Community.
- 1.3 This AP is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include relevant but nonetheless controversial, sensitive, or possibly even offensive subject matter protected by the First Amendment/free speech, as well as principles of academic freedom

SECTION 2: Applicability and Scope**2.1 Covered Individuals**

All provisions of this AP apply to all members of the College Community, including Students, Employees, applicants for admission or employment, visitors, Volunteers, and contractors, unless specified otherwise.

2.2 Covered Locations and Activities

All provisions of this AP are applicable on all College Property and during all Ordinary College Operations and College Sponsored Activities, on or off campus, regardless of location, and any other location or activity where the College reserves or retains the option to extend disciplinary processes unless specified otherwise.

¹ Defined terms are capitalized throughout this AP. Please see Section 16 for a Glossary of Definitions. Unless specified otherwise, all terms used in this AP that are not specifically defined in the Glossary of Definitions, including within the definitions themselves, shall be interpreted using their common dictionary definitions.

2.3 Online Activity and Social Media

2.3.1 This AP applies to all online, telephonic, and otherwise virtual activity, including use of social media, that

- Occurs on College Property;
- Occurs during or has a material adverse effect on Ordinary College Operations;
- Involves a Matter of Substantial College Interest;
- Involves the use of College IT Systems.

2.3.2 This AP may apply to discriminatory or harassing communications posted to social media sites or other online venues by Students, Employees, or other members of the College Community, even if College IT Systems were not used and/or the College does not control the social-media site or online venue, if the communications can reasonably be shown to be disruptive to Ordinary College Operations.

2.3.3 Social media activity and other forms of online communication that are protected by the First Amendment may not be the subject of disciplinary or other adverse action pursuant to this AP. However, the College may still provide Supportive Measures (see Section 6 of this AP) to members of the College Community affected by such communications.

2.4 Additional Covered Events and Circumstances

This AP may also apply to certain events and circumstances involving members of the College Community that do not occur on College Property, during Ordinary College Operations, or during College Sponsored Activities if those events 1) effectively limit or deprive one or more members of the College Community of access to or the benefits of, or subject them to Discrimination or Harassment in, the College's Education Programs and Activities, or 2) involve a Matter of Substantial College Interest.

2.5 Questions About Applicability and Scope

Questions about this AP's applicability and scope, or other issues related to its interpretation or implementation, including potential conflicts with other policies and procedures, will be resolved by the Chancellor (or designee) and are not subject to further review.

SECTION 3: Additional Policies and Procedures – Employee Handbooks and Student Codes of Conduct

- 3.1 The Chancellor authorizes the Provost and the Chief Human Resources Officer to develop, publish, and administer additional policies and procedures, including Standard Operating Procedures (“SOPs”), consistent with and in furtherance of the requirements, goals, and limitations of this AP, including, but not limited to, Employee Handbooks and Student Codes of Conduct.
- 3.2 Additional policies and procedures, including the Employee Handbook and Student Code of Conduct, may expand upon the rights and modify the procedures stated in this AP, if doing so is determined to be in the best interests of the efficient and equitable administration of this AP, provided they do not remove or materially restrict any rights provided for in this AP.
- 3.3 Any questions about potential conflicts or inconsistencies between the requirements of this AP and the additional provisions of the Employee Handbook, the Student Code of Conduct, or any other related SOPs will be resolved by the Chancellor or designee and are not subject to further review.

SECTION 4: Prohibited Discrimination and Harassment

- 4.1 The College strictly prohibits, will not tolerate, and shall endeavor to effectively address, remediate, and eliminate all forms of Discrimination and Harassment that occur in violation of this AP, including, but not limited to, Discrimination or Harassment on the basis of a Protected Class, Retaliation, Title IX Sex-Based Harassment, and other conduct that creates or contributes to a Hostile Environment.
- 4.2 The College reserves the right to address other offensive or disruptive conduct that a) does not rise to the level of creating or contributing to a Hostile Environment, or b) is not based on a Protected Class through the College's other applicable policies and procedures, including, but not limited to, Employee Handbooks and the Student Codes of Conduct.

- 4.3 The College recognizes that acts of Discrimination or Harassment may be committed by any individual(s) against any other individual(s), regardless of their respective status, even if they are both members of the same Protected Class.

SECTION 5: Retaliation

- 5.1 Retaliation is a form of unlawful Discrimination prohibited by this AP and will not be tolerated by the College.
- 5.2 Acts of Retaliation against persons who have reported, or submitted a Complaint about Discrimination or Harassment, participated in the investigation or resolution of a Report or Complaint about Discrimination or Harassment (*e.g.*, as a Complainant, Respondent, witness, Advisor, or decision-maker), or engaged in other Protected Activity pursuant to this AP are prohibited, will not be tolerated by the College, and should be reported immediately (see Section 10.3 of this AP).
- 5.3 Retaliation does not include the following:
- Adverse action taken against an individual for 1) making materially false, bad-faith statements or Frivolous allegations in the course of College proceedings undertaken pursuant to this AP or other College policies, or 2) refusing to cooperate or otherwise interfering with those same College proceedings when required to do so;
 - The legitimate exercise of rights otherwise protected under the First Amendment.

SECTION 6: Supportive Measures

- 6.1 The College shall offer Supportive Measures to affected members of the College Community upon notice of alleged Discrimination or Harassment, even if a Complaint has not been submitted.
- 6.2 If a Complaint is submitted, Supportive Measures shall be offered equally to both Complainants and Respondents until at least such time as a decision has been made on the Complaint pursuant to applicable College policy.
- 6.3 The College will endeavor to maintain the privacy of members of the College Community receiving Supportive Measures and avoid unnecessary

burdens on individuals involved, provided that doing so does not impair the College's ability to provide the Supportive Measures or to investigate or fully address Discrimination or Harassment.

- 6.4 Other members of the College Community, including Employees, will not be informed of the reason why an individual is receiving a Supportive Measure unless disclosing that information is necessary to provide the Supportive Measure.

SECTION 7: Emergency Removal and Administrative Leave

- 7.1 The College may immediately remove a Student, Employee, or other member of the College Community who is alleged to have engaged in prohibited Discrimination or Harassment from College Property and/or College Sponsored Activities, including Education Programs and Activities, if the College determines that the individual in question presents an immediate threat to the health or safety of the College Community or a significant risk of Substantial Disruption to Ordinary College Operations.
- 7.2 The specific emergency-removal procedures to be followed, including any available processes to appeal or review emergency-removal decisions, will vary, depending on the type of alleged Discrimination or Harassment and whether the individual to be removed is a Student, Employee, or other member of the College Community. Unless specified otherwise, the emergency removal of Students pursuant to this AP will be conducted following the procedures stated in the Student Code of Conduct, and the emergency removal of Employees will be conducted pursuant to the procedures in the Employee Handbook.
- 7.3 When allegations are made or information is received that, if proven, would meet the definition of Title IX Sex-Based Harassment (Section 14 of this AP), the Title IX Coordinator has the authority to order Emergency Removal of an Employee, Student, or other member of the College Community. The Title IX Coordinator may also order that non-student Employees be placed on Administrative Leave in such circumstances. (See Section 14.6 of this AP).
- 7.4 Nothing in this AP shall impair the College Police Department's authority to immediately remove any individuals from College Property in the interest of public safety.

SECTION 8: Court-Issued Orders of Protection/“No Contact” Orders

- 8.1 Although individual members of the College Community may receive lawful civil court orders in their personal capacities related to discrimination and harassment, including orders of protection and “no contact” orders, from local, state, and federal courts, the College is generally not in a position, or legally responsible, to enforce or otherwise take action on civil court orders, unless the College itself is a party to or subject of the same orders.
- 8.2 Members of the College Community with questions about complying with, or who believe other individuals are engaging in violations of, civil court orders on College Property or at College Sponsored Activity, may contact the College Police Department for assistance.
- 8.3 When necessary and appropriate to protect the College Community as a whole from specific incidents of Discrimination and Harassment, particularly when public safety is threatened, the College may seek injunctions, orders of protection, or “no contact” orders on behalf of the College itself from local, state, or federal courts.
- 8.4 The College itself cannot seek personal orders of protection, “no contact” orders, or other forms of legal relief from local, state, and federal courts on behalf of individual Students, Employees, or other members of the College Community who may be affected by Discrimination or Harassment.
- 8.5 The College may, in addition to other Supportive Measures, refer members of the College Community affected by Discrimination and Harassment to low- or no-cost legal services outside the College to assist them with related legal matters, including, but not limited to, seeking or defending against such court orders.

SECTION 9: College-Wide, Inter-Departmental Cooperation and Information-Sharing

- 9.1 The College is committed to providing a unified, holistic approach to preventing and responding to Discrimination and Harassment, regardless of the form it takes, where or when it occurs, or the status within the College Community of the persons perpetrating or affected by it (*e.g.*, Student, Employee, visitor).

- 9.2 The College recognizes that individual incidents may include multiple forms of Discrimination and Harassment as well as other violations of College policy; involve various combinations of Students, Employees, and other members of the College Community; and require the simultaneous attention of multiple College departments. Accordingly, all College departments shall share information, combine efforts, and otherwise cooperate, to the maximum extent permitted by law and consistent with other applicable College policies, to provide uniform, consistent, efficient, and effective responses to Discrimination and Harassment.

SECTION 10: Complaint and Reporting Processes and Resources

Different forms of Discrimination and Harassment are frequently covered by different laws and regulations, may afford different or additional rights and responsibilities, and may require that the College follow different or additional procedures. Additionally, different College departments may be tasked with administering the College's policies and procedures related to one or more specific forms of Discrimination and Harassment.

In general, anyone can make a Report, ensuring that the College knows about a situation. Complaints are requests by persons subjected to Discrimination or Harassment to implement resolution processes.

10.1 Submitting Reports about or Complaints against Employees

Unless specified otherwise in this AP, any member of the College Community may submit a Report or Complaint about an Employee engaging in prohibited Discrimination and Harassment pursuant to the processes found in the Employee Handbook. The College's Office of Dispute Resources ("ODR") shall be notified of all such Reports or Complaints. Reports and Complaints may also be submitted directly to ODR (see Section 10.3).

10.2 Submitting Reports About or Complaints against Students

Unless specified otherwise in this AP, any member of the College Community may submit a Report or Complaint about a Student engaging in prohibited Discrimination and Harassment pursuant to the processes found in the Student Code of Conduct. ODR shall be notified of all such complaints. Reports and Complaints may also be submitted directly to ODR (see Section 10.3).

10.3 Submitting Reports or Complaints through the Office of Dispute Resources (ODR)

Complete information about ODR and how Reports and Complaints of Discrimination and Harassment may be submitted, including anonymously, can be found on ODR's page on the College's website:

<https://www.pima.edu/administration/complaint-resources/odr.html>

- 10.3.1 Any member of the College Community may contact ODR to make a Report or initiate a Complaint about any form of Discrimination or Harassment in violation of this AP. Members of the College Community may also contact ODR to seek guidance on the College's Discrimination or Harassment policies and procedures, as well as any other matter involving questions about or potential violations of College policy. (Please see ODR's page on the College's website for additional information, including contact information).
- 10.3.2 ODR will conduct an initial intake of the Report or Complaint and assist in referring individuals reporting potential Discrimination or Harassment to the appropriate responsible College offices, depending on the nature of alleged Discrimination or Harassment and the respective roles of the parties in the College Community (*e.g.*, Students, Employees).
- 10.3.3 ODR will provide neutral investigatory services to develop the facts underlying reported incidents of potential Discrimination or Harassment, including but not limited to collecting and summarizing relevant documentation and interviewing parties and witnesses.
- 10.3.4 ODR may likewise facilitate or otherwise assist with the informal resolution of disputes involving alleged Discrimination or Harassment for which the individuals reporting such incidents do not wish to submit formal Complaints. ODR will not itself administer Complaint processes, hold hearings, issue decisions, or conduct appeals.

10.4 Complaint Decision-Making Authority

- 10.4.1 Except for allegations meeting the definition of Title IX Sex-Based Harassment (See Section 14 of this AP), the specific College offices or administrators with decision-making authority over issues related to Complaints alleging Discrimination and Harassment, or the process by which those decision-makers are determined, will generally be specified in the applicable College policies or procedures (*e.g.*, the Student Code of Conduct, the Employee Handbook). The Title IX Coordinator or a Deputy Title IX Coordinator will remain involved when allegations include Sex Discrimination or Retaliation (See Section 13 of this AP).
- 10.4.2 Any questions or ambiguity regarding which College offices or administrators have decision-making authority, or primary decision-making authority (in the event a Complaint involves multiple forms of Discrimination or Harassment and implicates more than one policy or procedure), will be resolved by the Chancellor (or designee).
- 10.4.3 Per Section 9 above, the College shall endeavor to prevent the issuance of multiple or conflicting decisions about the same or substantially similar factual allegations by ensuring that all College departments with administrative responsibility for the parties and/or policies at issue in a Complaint coordinate their efforts, cooperate in the Complaint-resolution process, and acknowledge or agree upon who the decision-maker(s) will be. The Chancellor (or designee) shall resolve any disputes about who should be the ultimate decision-maker(s) on particular Complaints, allegations, or policy matters.

10.5 Designees

- 10.5.1 The Title IX Coordinator is the Chancellor's designee for administering the processes related to all Reports or Complaints involving allegations of Title IX Sex Discrimination, Title IX Sex-Based Harassment, or Retaliation for participating in the College's Title IX processes.
- 10.5.2 In all other cases, if a specific decision-maker is not clearly identified, or if a specified decision-maker has a material conflict,

the Chancellor will designate a College Employee with appropriate administrative authority to issue a decision on the Complaint.

10.5.3 If the Chancellor determines, in consultation with the College's General Counsel, that a College Employee cannot or should not be the decision-maker (*e.g.*, in the case of a College-wide conflict), a neutral third-party from outside the College will be retained to hear and decide the Complaint.

10.5.4 All designees, including those retained from outside the College, must be neutral third-parties with no direct personal connection to or interest in the parties to or events at issue in a Complaint. The College does not require that designees have no prior knowledge of the facts or parties involved in such Complaints.

10.6 Reports or Complaints against the Chancellor

A Report or Complaint alleging that the Chancellor personally engaged in unlawful Discrimination or Harassment will be referred to the General Counsel and Governing Board Chair to be resolved in accordance with the Board Bylaws Article on Response to Complaints.

10.7 Timelines for Reporting or Submitting Complaints

10.7.1 The College strongly encourages members of the College Community to report Discrimination or Harassment in violation of this AP as soon as possible after an alleged incident. However, the College generally does not set time limits on making Reports of or submitting Complaints about Discrimination and Harassment. If individuals alleged to have engaged in Discrimination or Harassment are no longer Students at or Employees of the College, or are otherwise no longer subject to the College's jurisdiction, the College's ability to investigate and respond to such Reports and Complaints may be substantially limited.

10.7.2 Unless specified otherwise, the designated decision-makers have the discretion to determine whether or not to initiate or continue investigations into, as well as other responsive proceedings concerning, alleged Discrimination or Harassment when it is determined that a significant amount of time has passed since the date of the event(s) at issue, such that it is not reasonably possible

to adequately investigate the allegation or to otherwise fairly administer the College's applicable policies.

- 10.7.3 If, due to the passage of time, a designated decision-maker determines that it is not reasonably possible to continue an investigation or other responsive proceeding in accordance with the requirements of College policy, the decision-maker may still document the allegations for future reference, offer Supportive Measures to affected individuals, or take other formal or informal action that the decision-maker deems appropriate.

10.8 Effect of Time on Applicable Policies and Procedures

- 10.8.1 Unless specified otherwise, the College will generally apply the policies and procedures in effect when the events at issue in a Report or Complaint of Discrimination or Harassment occurred or are alleged to have occurred.

- 10.8.2 With the exception of allegations of Title IX Sex-Based Harassment, the College may apply current policies or procedures, notwithstanding when the events at issue allegedly occurred, when legally required to do so, or if the College determines, at its discretion, that doing so would a) present a significantly lower administrative burden on the College, and b) not deprive the parties involved of any significant rights afforded to them under the old policies that are no longer in effect. Allegations of Title IX Sex-Based Harassment that occurred on or before July 31, 2024, shall be resolved using the process in AP 2.03.01 revised 03/13/2024, available at the following link:

<https://pima.edu/about-pima/leadership-policies/policies/administrative-procedures/docs-ap-02/ap-2-03-01-old.pdf>

10.9 Complaints to Outside Agencies

In addition to using the College's internal procedures, members of the College Community also have the right to file claims of Discrimination, Harassment, and Retaliation with the following state and federal agencies (please contact the respective agencies for applicable filing requirements and timeframes):

United States Department of Education
Office for Civil Rights (OCR)
1244 Speer Blvd., Suite 310
Denver, Colorado 80204-3582
Phone: (303) 844-5695
Fax: (303) 844-4303
Email: ocr.denver@ed.gov

The Office of the Arizona Attorney General
Civil Rights Division (ACRD)
402 W. Congress Street, Suite S215
Tucson, Arizona 86701-1367
Phone: (520) 628-6500
TDD: (520) 628-6872

The United States Equal Employment Opportunity Commission
3300 N. Central Avenue, Suite 690
Phoenix, Arizona 85012-2504
Phone: (602) 640-5000
Phone: (800) 669-4000
TTY: (800) 669-6820
Fax: (602) 640-5017
Email: <https://www.eeoc.gov/field-office/phoenix/location>

10.10 Federal Timely Warning Obligations

Pursuant to the Clery Act, the College may be required to issue “timely warnings” upon receipt of reports of certain types of Discrimination or Harassment that pose or may pose a serious or continued threat to the overall College Community (*e.g.*, Sexual Assault and Stalking). If timely warnings are required, the College will ensure that the names and other personally identifying information of the persons reporting the Discrimination and Harassment in question are not disclosed.

10.11 Good-Faith Mistakes vs. False Allegations

- 10.11.1 The College understands that genuine mistakes may occur, and individuals’ perceptions may reasonably differ, during the course of proceedings undertaken pursuant to this AP. Persons who make allegations or provide information in good faith that is later found

to be erroneous or that could not be proven by a Preponderance of the Evidence will not be subject to disciplinary or other adverse action by the College.

- 10.11.2 Making Knowingly false, Malicious, or Frivolous allegations of Discrimination or Harassment pursuant to this AP is a serious offense and may result in separate disciplinary proceedings pursuant to the Employee Handbook or Student Code of Conduct.
 - 10.11.3 Witnesses and parties who Knowingly provide false or materially misleading evidence to Investigators or decision-makers, or who refuse to participate or cooperate when required to do so (*i.e.*, absent a Legally Protected Privilege, which includes the right for parties and student witnesses to decline to participate in Title IX Sex-Based Harassment proceedings), during any College proceedings undertaken in accordance with this AP may be subject to discipline pursuant to the Employee Handbook, Student Code of Conduct, or other applicable College policies and procedures.
- 10.12 Amnesty for Lesser Collateral Misconduct
- 10.12.1 In the interest of encouraging the College Community to report and participate fully in investigations into and resolutions of incidents of alleged Discrimination and Harassment, the College generally refrains from pursuing disciplinary action against parties and witnesses for lesser misconduct in which they may have engaged collateral to or during the Discriminatory or Harassing incidents in question (*e.g.*, alcohol consumption).
 - 10.12.2 This general policy does not apply to more serious collateral misconduct in which the parties may have engaged (*e.g.*, physical violence) or to conduct that is unrelated to the specific Discrimination or Harassment allegations being investigated.
 - 10.12.3 The College may still require parties and witnesses determined to have engaged in lesser collateral misconduct to participate in non-punitive educational activities, even if the College refrains from pursuing disciplinary action.

10.13 Counter-Complaints

- 10.13.1 The College generally permits the submission of Counter-Complaints of Discrimination or Harassment, provided they are made in good faith and not for the purpose of Retaliation or to cause unnecessary disruption or delay.
- 10.13.2 The College may conduct a preliminary investigation to assess if there is a sufficient factual basis to believe that a Counter-Complaint is made in good faith and not for a prohibited reason.
- 10.13.3 Counter-Complaints determined to be Knowingly false, Malicious, or Frivolous, or brought for another prohibited reason will be dismissed, and Respondents submitting them may be referred for possible separate disciplinary proceedings.
- 10.13.4 Counter-Complaints determined to be made in good faith will generally be investigated and resolved at the same time and in the course of the same proceedings as the associated original Complaints, unless the College, in its sole discretion, determines that the investigation and/or resolution of a Counter-Complaint should be 1) conducted separately, and/or 2) delayed until after the resolution of the original Complaint.
- 10.13.5 Counter-Complaints alleging Sex-Based Harassment or other forms of sex- or gender-based Discrimination or Retaliation must be referred to and evaluated by the Title IX Coordinator (see Sections 13 and 14 of this AP), even if the allegations are primarily about another form of Discrimination or Harassment. Allegations satisfying the definition of Title IX Sex-Based Harassment may only be investigated and resolved through the College's Title IX Sex-Based Harassment Resolution Process (see Section 14).

10.14 Advisors

Unless specifically stated otherwise, the availability and scope of participation of Advisors in Discrimination and Harassment Complaint proceedings at the College will be determined according to the applicable processes to be followed (*e.g.*, Employee Handbook, Student Code of Conduct; Title IX Advisors are addressed in Sections 13 and 14 of this AP).

When allegations against students meet the definition of Major Misconduct in the Student Code of Conduct, the Student Respondent may also be actively assisted by an attorney at the student's own expense in any meetings with the decision-maker.

10.15 Considerations when a Respondent is Both a Student and an Employee

10.15.1 If a Complaint is against a Respondent who is both a Student and an Employee, the College will generally follow the Complaint process most applicable to the status of the Respondent when allegedly engaging in the majority of the allegations (*e.g.*, either the Employee Handbook or the Student Code of Conduct), if different processes could apply.

10.15.2 If such a Respondent is ultimately found responsible for a violation of this AP, any Educational Measures or Disciplinary Sanctions imposed on the Respondent may relate to both the Respondent's status as a Student and an Employee (*e.g.*, the Respondent could be Expelled as a Student and Terminated as an Employee), subject to any applicable appeal processes for specific Educational Measures or Disciplinary Sanctions, or the Title IX Sex-Based Harassment Resolution Process.

10.16 Disability Accommodations in Complaint Processes

The College is committed to providing reasonable accommodations to ensure that qualified Students, Employees, and other members of the College Community with disabilities have equal access to all aspects of the administration of this AP. Students requesting such an accommodation should contact the College's Access and Disabilities Resources Office ("ADR"). Employees and applicants should contact the Employee Service Center ("ESC").

10.17 Effect of Collateral Criminal or Civil Legal Proceedings

10.17.1 The College is generally not prevented from taking responsive action by ongoing collateral criminal or civil legal proceedings based on the same general allegations as a Complaint received by the College. Likewise, the fact that criminal charges have been dropped or reduced, or civil lawsuits settled, does not affect ongoing related matters at the College.

- 10.17.2 At the request of law enforcement agencies, the College may institute reasonable delays in College proceedings if the College determines that doing so would be in the best interests of the administration of justice and would not materially interfere with the College's ability to effectively investigate or respond to the matter.
- 10.17.3 College proceedings will not be delayed to accommodate civil lawsuits or other non-criminal legal matters.
- 10.18 Central Repository for all Reports and Complaints of Discrimination and Harassment
- 10.18.1 In accordance with Section 15 below, all Reports and Complaints of Discrimination and Harassment in violation of this AP shall be recorded and maintained in a centralized electronic database, administered by the Office of the General Counsel or designee (*e.g.*, ODR), regardless of the types of conduct alleged, the roles of the Complainant and/or Respondent within the College Community, or the specific College departments receiving and responding to the Complaints.
- 10.18.2 The College shall monitor this central Complaint repository and periodically review the information contained therein to identify any trends in the reporting of Discrimination and Harassment at the College, to improve the College's investigation and resolution processes, and for any other purposes related to the overall reduction of Discrimination and Harassment at the College.
- 10.18.3 The College's Title IX Coordinator shall have unrestricted access to all Discrimination and Harassment complaints that involve allegations related to Sex Discrimination, Sex-Based Harassment, Retaliation, equal access, or parity.
- 10.19 Confidential and Anonymous Reports and Complaints
- 10.19.1 Persons reporting alleged violations of this AP may request that their Reports and Complaints remain confidential. The College will endeavor to honor such requests when not prohibited from doing so (*e.g.*, as with Title IX Complaints (see Section 14.6.4 of

this AP) and when the College's obligation to protect the College Community does not override the request for confidentiality.

- 10.19.2 Anonymous Complaints may be submitted through a toll-free telephone number and/or anonymous website, which can be found on the ODR page on the College's website.
 - 10.19.3 Persons requesting confidentiality or submitting anonymous Complaints should be aware that doing so, even when permitted, may significantly limit the College's ability to investigate and respond to such Complaints.
- 10.20 Use of Email for Complaint-Related Written Communication and Determining Effective Dates
- 10.20.1 All written communication related to Complaints made pursuant to this AP shall be conducted by email unless alternative means are required due to extenuating circumstances and expressly approved in writing by a College administrator with authority over the Complaint process in question or by the College's Access and Disabilities Resources ("ADR") Office as part of an accommodation.
 - 10.20.2 Current Employees and Students participating in Complaint proceedings in any capacity (e.g., as Complainants, Respondents, Advisors, or witnesses) must conduct all Complaint-related written correspondence using their assigned "pima.edu" email accounts unless specifically authorized in writing by the College to use another form of correspondence for a specific purpose (e.g., to forward to the College Discriminatory or Harassing messages received at a personal account).
 - 10.20.3 All Complaint-related email sent at or before 5:00 p.m. on a Business Day will be deemed received and read by the recipient on the date it was sent. Complaint-related email sent after 5:00 p.m. will be deemed received and read by the recipient on the next Business Day.

10.21 Duty of Employees to Report Discrimination and Harassment

- 10.21.1 All College Employees (including Student-Employees) are Mandated Reporters and are required to promptly make a Report all known details of actual or suspected Sex Discrimination, Sex-Based Harassment, and/or Retaliation, to the Title IX Coordinator or a Deputy Title IX Coordinator. Reporting through the College's Hotline is considered to have properly made a Report when Mandated Reporters include their contact information.
- 10.21.2 Employees who are Supervisors or who instruct or advise Students are required to report all other potential Discrimination or Harassment that comes to the Employees' attention in the course and scope of their College employment, either because they themselves witness it or because it is reported to them verbally or in writing.
- 10.21.3 Reports must be made as soon as possible (generally within one (1) Business Day, unless specified otherwise) and may be submitted in accordance with the provisions of the Employee Handbook or to ODR.
- 10.21.4 The duty of certain Employees to report Discrimination and Harassment pursuant to this AP is independent of and in addition to the legal "Mandatory Reporting" duty of all Employees to report child abuse, child neglect, and other "reportable offenses" as defined by law (see AP 11.02.03, "Mandatory Reporting - Abuse of a Minor or Child").

SECTION 11: Disability Discrimination and Harassment

Different or additional laws apply to disability Discrimination and Harassment in federally funded higher educational institutions, such as the College (*e.g.*, the ADA, Section 504). Accordingly, the College has implemented APs specifically prohibiting, and providing processes to address and respond to Complaints of, disability Discrimination and Harassment (see AP 3.46.03, AP 3.46.06, and AP 5.10.04).

11.1 Reporting or Submitting a Complaint of Disability Discrimination or Harassment

- 11.1.1 Unless otherwise specified elsewhere in College policy or procedures, any Report or Complaint regarding disability Discrimination and Harassment may be made to the College's Access and Disabilities Resources Office ("ADR") (see the College's website for contact information). Reports and Complaints submitted to ADR shall be shared with the College's central repository pursuant to the recordkeeping provisions of this AP (see Section 10.18 and Section 15).
- 11.1.2 Other College offices (*e.g.*, ODR, Human Resources ("HR"), the Office of the Dean of Students) receiving such Reports or Complaints should refer them to the office of the College's ADR Director (see the College's website for contact information).

11.2 Complaint Procedures Followed

Unless specified otherwise in College policy, Reports or Complaints of Discrimination and Harassment on the basis of disability will be addressed as follows:

11.2.1 Reports About or Complaints Against Students

Complaints alleging that a Student engaged in disability Discrimination or Harassment against any member of the College Community (*i.e.*, in which a Student is the Respondent) shall be addressed according to the procedures found in the Student Code of Conduct and in conjunction with the College's ADR Director (or designee).

11.2.2 Reports About or Complaints Against Employees

Complaints alleging that an Employee engaged in disability Discrimination or Harassment against any member of the College Community (*i.e.*, in which an Employee is the Respondent) shall be addressed according to the Complaint procedures found in the Employee Handbook and in conjunction with the College's ADR Director (or designee).

11.2.3 All Other Reports or Complaints

Unless specified otherwise elsewhere in College policy or procedure, disability-based Discrimination and Harassment Complaints against individuals other than Students and Employees (e.g., visitors, Volunteers, contractors retained by the College) will be heard and decided by the College's ADR Director (or designee).

SECTION 12: Discrimination and Harassment Not Based on Disability or Sex/Gender

12.1 Reporting or Submitting a Complaint

12.1.1 Any Report or Complaint of Discrimination and Harassment in violation of this AP (by a Student, Employee, or any other member of the College Community) may be made to ODR (see the College's website for contact information).

12.1.2 Reports about or Complaints against Students may also be submitted to the Office of the Dean of Students (or designee) pursuant to the processes stated in the Student Code of Conduct. Please see the Dean of Student's page on the College's website for additional information.

12.1.3 Reports about or Complaints against Employees may also be submitted to Human Resources through the Complaint processes stated in the Employee Handbook. Additional information can be found on the Human Resources' page on the College's website.

12.2 Complaint Procedures Followed

Unless specified otherwise in College policy, Complaints of Discrimination and Harassment on any prohibited basis other than disability (covered in Section 11 of this AP) and sex/gender (covered in Sections 13 and 14 of this AP); including, but not limited to, race, color, ethnicity, national origin, religion or irreligion, age, veteran military status, or genetic information (including family medical history); will be addressed as follows:

12.2.1 Complaints Against Students

Complaints alleging that a Student engaged in any other form of prohibited Discrimination or Harassment against any member of the College Community (*i.e.*, in which a Student is the Respondent) in violation of this AP shall be addressed according to the procedures found in the Student Code of Conduct.

12.2.2 Complaints Against Employees

Complaints alleging that an Employee engaged in any other form of prohibited Discrimination or Harassment against any member of the College Community (*i.e.*, in which an Employee is the Respondent) in violation of this AP shall be addressed according to the procedures found in the Employee Handbook.

12.2.3 All Other Complaints

Unless specified otherwise elsewhere in College policy or procedure, Discrimination and Harassment Complaints against individuals other than Students and Employees (*e.g.*, visitors, Volunteers, contractors retained by the College) that are not based on alleged disability or sex/gender Discrimination or Harassment may be submitted to ODR and may be heard and decided by a College official designated by the Chancellor (or designee) in accordance with the College's generally applicable complaint-resolution process, which can be found on ODR's page on the College's website.

SECTION 13: Sex-/Gender-Based Discrimination & Harassment Generally

13.1 Sex-/Gender-Based Discrimination, Sex-Based Harassment, and Retaliation are a subset of all Discrimination and Harassment. Sex-Based Harassment is a subset of Sex Discrimination. Section 14 of this AP applies to allegations that, if proven, would meet the definition of Sex-Based Harassment. Section 13 applies to all Sex Discrimination in general, and specifically to Sex Discrimination and Retaliation that does not meet the definition of Sex-Based Harassment.

13.2 Differences between Title IX Sex-Based Harassment and other forms of Sex- and Gender-Based Discrimination and Retaliation

The College does not tolerate any form of Discrimination or Harassment on the basis of sex or gender and will respond to all Reports or Complaints about such misconduct Sex Discrimination, and Sex-Based Harassment, and Retaliation must be addressed pursuant to Title IX, a federal law and related U.S. Department of Education regulations specifically addressing sex discrimination in higher education. If the Title IX Coordinator (or designee) determines that Title IX applies, the Title IX Coordinator may determine that all complaints and allegations arising from a common set of circumstances or allegations, including those that are non-Title IX, should be addressed and decided concurrently through the Title IX Resolution Process.

13.3 Review of All Sex- and Gender-Based Discrimination and Harassment Allegations by the Title IX Coordinator

All Reports or Complaints containing allegations of sex- or gender-based Discrimination or Sex-Based Harassment (even if those are not the primary forms of Discrimination or Harassment alleged) must be reviewed by the College's Title IX Coordinator or designee to determine if the alleged misconduct meets the definition of Title IX Sex-Based Harassment (see Section 14.10). Allegations of Title IX Sex-Based Harassment may only be investigated and resolved through the College's Title IX Sex-Based Harassment process (see Section 14). Other areas of the College may not attempt to investigate or informally resolve complaints of sex- or gender-based Discrimination or Sex-Based Harassment prior to a determination by the Title IX Coordinator (or designee) as to whether or not the complaint or situation falls within Title IX jurisdiction.

13.4 Sex- and Gender-Based Discrimination or Harassment That Does Not Meet the Definition of "Title IX Sex-Based Harassment"

Certain forms of alleged misconduct committed against a member of the College Community related to that person's sex or gender (including, but not limited to, biological sex, sexual orientation, gender identity, or gender expression) may violate this AP, as well as state or federal law (e.g., Title VII or other forms of discrimination within Title IX), even if the alleged misconduct does not meet the definition of Title IX Sex-Based Harassment.

If the Title IX Coordinator determines that alleged misconduct does not meet the Title IX Sex-Based Harassment standards (see Definitions) but may still violate this AP, the allegations will be reviewed through other processes. Reports and Complaints may be submitted as follows:

13.4.1 Through the College's Office of Dispute Resources ("ODR")

District Office
4905 E. Broadway, Room C208 (MS 1300)
Tucson, AZ 85709-1010
520.206.4686
resolution@pima.edu

Additional information can be found on ODR's page on the College's website:

<https://www.pima.edu/administration/complaint-resources/odr.html>

13.4.2 Through the Title IX Coordinator or a Deputy Coordinator

David Parker
Title IX Coordinator
District Office
4905 E. Broadway, Room C217 (MS 1005)
Tucson, AZ 85709-1010
520.206.4852
dparker8@pima.edu

Contact information for Deputy Title IX Coordinators is available at the following website:

<https://www.pima.edu/student-resources/student-policies-complaints/titleix/index.html>

13.5 Title IX Sex Discrimination and Retaliation Resolution Process

13.5.1 Complainants and Respondents must be treated equitably.

13.5.2 The assigned Deputy Title IX Coordinator, investigator and Decision-maker may not have a conflict of interest or a bias for or

against Complainants or Respondents generally or an individual Complainant or Respondent. The Decision-maker may be the same person as the assigned Deputy Title IX Coordinator.

- 13.5.3 The Respondent is presumed not responsible for the alleged Sex Discrimination until a determination is made at the conclusion of the Resolution Process.
- 13.5.4 The College will attempt to complete the Resolution Process in a timely manner. Refer to codes of conduct and the Employee Handbook for specific time frames. The assigned Deputy Title IX Coordinator may authorize reasonable extension of timeframes on a case-by-case basis for good cause, providing notice to the Parties that include the reason for the delay.
- 13.5.5 The assigned Deputy Title IX Coordinator shall ensure that the Decision-maker has been trained on Title IX Sex Discrimination and the Title IX Resolution Process.
- 13.5.6 The Decision-maker shall make an objective evaluation of all evidence that is relevant and not otherwise excluded, including both inculpatory and exculpatory evidence. The credibility determination must not be based on a person's status as a Complainant, Respondent, or witness.
- 13.5.7 The following types of impermissible evidence and questions seeking impermissible evidence must not be accessed or considered except to determine that the evidence is impermissible, must not be disclosed, and must not be used, regardless of whether they are relevant:
- Evidence that is protected under a privilege as recognized by Federal or State law unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
 - A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the recipient obtains that Party's or witness's voluntary, written consent for use in the

recipient's grievance procedures; and

- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged Sex-Based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged Sex-Based Harassment or preclude determination that Sex-Based Harassment occurred.

13.5.8 The assigned Deputy Title IX Coordinator or Investigator (ODR) shall provide a Notice of Investigation and Allegations (NOIA) to the parties who are known. The NOIA shall include the following:

- The Colleges Resolution Process procedures.
- Sufficient information available at the time to allow the Parties to respond to the allegations, including the identity of the parties involved in the incidents, the conduct alleged to constitute Sex Discrimination under Title IX, the dates and locations of the alleged incident(s), to the extent that information is available to the College.
- A statement that retaliation is prohibited.
- A statement that the Parties are entitled to an equal opportunity to access the Relevant and not otherwise impermissible evidence, or an accurate description of this information. If a description is provided, a statement that the Parties are entitled to an equal opportunity to access the Relevant and not otherwise impermissible evidence.

13.5.9 If during the course of an investigation, the College decides to investigate additional allegations of Sex Discrimination by the Respondent toward the Complainant that are not included in the NOIA, the assigned Deputy Title IX Coordinator must provide an

updated NOIA to the Parties whose identities are known.

13.6 Dismissal of a Complaint

- 13.6.1 The assigned Deputy Title IX Coordinator may dismiss a Complaint of Sex Discrimination for any of the following reasons:
- The College is unable to identify the respondent after taking reasonable steps to do so;
 - The Respondent is not participating in the recipient's Education Program or Activity and is not employed by the College;
 - The Complainant voluntarily withdraws any or all of the allegations in the complaint, the assigned Deputy Title IX Coordinator declines to initiate a Complaint, and the College determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute Sex Discrimination under Title IX even if proven; or
 - The College determines the conduct alleged in the complaint, even if proven, would not constitute Sex Discrimination under Title IX. Prior to dismissing the Complaint, the College must make reasonable efforts to clarify the allegations with the Complainant.
- 13.6.2 Upon dismissal, the assigned Deputy Title IX Coordinator must promptly notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the assigned Deputy Title IX Coordinator must also notify the Respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.
- 13.6.3 The assigned Deputy Title IX Coordinator must notify the complainant that a dismissal may be appealed and provide the complainant with an opportunity to appeal the dismissal of a complaint on the bases described in Section 14.8.4. If the dismissal occurs after the Respondent has been notified of the allegations,

then the Recipient must also notify the respondent that the dismissal may be appealed. If the dismissal is appealed, the recipient must:

- Notify the Parties of any Appeal, including notice of the allegations if notice was not previously provided to the Respondent;
- Implement appeal procedures equally for the Parties;
- Ensure that the Decision-maker for the Appeal did not take part in an Investigation of the allegations or dismissal of the Complaint;
- Ensure that the Decision-maker for the Appeal has been trained in the Title IX Resolution Process;
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the Parties of the result of the Appeal and the rationale for the result.

13.6.4 The assigned Deputy Title IX Coordinator that dismisses a complaint must, at a minimum:

- Offer supportive measures to the Complainant as appropriate;
- For dismissals in which the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
- Take other appropriate prompt and effective steps to ensure that Sex Discrimination does not continue or recur within the College's Education Program or Activity.

13.7 Consolidation of complaints.

The Title IX Coordinator or assigned Deputy Title IX Coordinator may consolidate Complaints of Sex Discrimination against more than one Respondent, or by more than one Complainant against one or more

Respondents, or by one Party against another Party, when the allegations of Sex Discrimination arise out of the same facts or circumstances. If one of the Complaints to be consolidated is a Complaint of Sex-Based Harassment, the Resolution Process in Section 14 shall be used.

13.8 Complaint investigation.

13.8.1 The College will provide for adequate, reliable, and impartial investigation of Complaints, including:

13.8.1.1 The burden is on the College—not on the Parties—to conduct an Investigation that gathers sufficient evidence to determine whether Sex Discrimination occurred;

13.8.1.2 Providing an equal opportunity for the Parties to present fact witnesses and other inculpatory and exculpatory evidence that are Relevant and not otherwise impermissible;

13.8.1.3 Reviewing all evidence gathered through the Investigation and determining what evidence is Relevant and what evidence is impermissible regardless of relevance; and

13.8.1.4 Providing each Party with an equal opportunity to access the evidence that is Relevant to the allegations of Sex Discrimination and not otherwise impermissible

13.8.2 The Parties shall not disclose information and evidence obtained solely through the Title IX Resolution Process without authorization from the Title IX Coordinator. Disclosures of such information and evidence for purposes of the Title IX Resolution Process or litigation related to the Complaint of Sex Discrimination are authorized.

13.9 Questioning parties and witnesses to aid in evaluating allegations and assessing credibility.

The decision-maker may question Parties and witnesses to adequately assess a Party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

13.10 Determination whether sex discrimination occurred.

Following an Investigation and evaluation of all relevant and not otherwise impermissible evidence, the Decision-maker must:

- 13.10.1 Use the preponderance of the evidence standard of proof to determine whether Sex Discrimination occurred. If the Decision-maker is not persuaded by the evidence that Sex Discrimination occurred, whatever the quantity of the evidence is, the Decision-maker must not determine that Sex Discrimination occurred.
- 13.10.2 Notify the parties in writing of the determination whether Sex Discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal, if applicable;
- 13.10.3 If there is a determination that Sex Discrimination occurred, as appropriate, require the assigned Deputy Title IX Coordinator to coordinate the provision and implementation of remedies to a Complainant and other persons the College identifies as having had equal access to the College's Education Program or Activity limited or denied by Sex Discrimination, coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions, and require the Deputy Title IX Coordinator to take other appropriate prompt and effective steps to ensure that Sex Discrimination does not continue or recur within the College's Education Program or Activity.
- 13.10.4 Not discipline a Party, witness, or others participating in the College's Title IX Resolution Process for making a false statement or for engaging in consensual sexual conduct based solely on the College's determination whether Sex Discrimination occurred.

SECTION 14: Title IX Sex-Based Harassment

Title IX Sex-Based Harassment is a specific category of sex- or gender-based Discrimination and Harassment under federal law (*i.e.*, Title IX and associated regulations adopted by the U.S. Department of Education) which requires certain different or additional action by the College. (Title IX Sex-Based Harassment is a subset of broader forms of Sex- and Gender-based Harassment and is subject to

this Section 14. Title IX allegations not meeting the definition of Title IX Sex-Based Harassment are handled pursuant to Section 13. See Section 14.8).

All Title IX Sex-Based Harassment qualifies as prohibited Discrimination and Harassment under this AP, but not all prohibited sex- and gender-based Discrimination and Harassment qualifies as Title IX Sex-Based Harassment. Complaints alleging conduct that would qualify as Title IX Sex-Based Harassment, if proven, may only be addressed through the Title IX Sex-Based Harassment Resolution Process. Complaints determined not to fall within Title IX Sex-Based Harassment will be referred to the appropriate Code of Conduct process. For a Complaint that includes allegations covered by Title IX Sex-Based Harassment and allegations that are not covered, the Title IX Coordinator may determine that all allegations arising from a common set of circumstances or actions will be handled together through the Title IX Sex-Based Harassment Process. Questions about which process will apply to particular allegations may be directed to the College's Title IX Coordinator.

14.1 Authority of the Title IX Coordinator

- 14.1.1 The College's Title IX Coordinator has the primary responsibility to oversee and coordinate the implementation of the Title IX related portions of this AP, including, but not limited to, the resolution of Title IX Sex-Based Harassment Reports and Complaints and the delivery of required Title IX training.
- 14.1.2 The Title IX Coordinator (or designee) shall be primarily responsible for the College's response to Reports and Complaints of Title IX Sex-Based Harassment, regardless of whether the parties involved are Students, Employees, or other members of the College Community.
- 14.1.3 The Title IX Coordinator has the authority to order Emergency Removal of an Employee, Student, or other member of the College Community when allegations are made or information is received that, if proven, would meet the definition of Title IX Sex-Based Harassment. The Title IX Coordinator may also order that non-student Employees be placed on Administrative Leave in such circumstances.
- 14.1.4 The Title IX Coordinator and any Deputy Title IX Coordinators (see Section 14.2 below) shall be trained in Title IX laws,

regulations, policies, and processes and shall receive periodic updates to that training, typically on an annual basis.

14.2 Designation of Deputy Title IX Coordinators

14.2.1 The Title IX Coordinator may designate one or more Deputy Title IX Coordinators to oversee the implementation of elements of this AP.

14.2.2 Regardless of their respective administrative supervisors, all Deputy Title IX Coordinators will report exclusively to the Title IX Coordinator for purposes of the administration of the Title IX provisions of this AP only.

14.2.3 All Deputy Title IX Coordinators shall be identified on the College's website along with their respective contact information and designated areas or responsibility (*e.g.*, Human Resources, Student Affairs, and ADR).

14.3 All College Employees are Mandated Reporters for Purposes of Title IX

Title IX requires that the College promptly respond to a Title IX Report or Complaint of Sex Discrimination, Sex-Based Harassment, or Retaliation. Any College Employee, including Student Employees, with knowledge of conduct that may reasonably qualify as Sex Discrimination, Sex-Based Harassment, or Retaliation must promptly notify the Title IX Coordinator, or a Deputy Title IX Coordinator.

14.3.2 The requirement for College Employees designated as "mandatory reporters" pursuant to AP 11.02.03 ("Mandatory Reporting – Abuse of a Minor Child") is a separate and independent reporting duty.

14.4 The Title IX Pool

14.4.1 Role and Responsibilities

The College will utilize a group of specially trained individuals, to serve a variety of roles in the Title IX process, including, but not limited to, Title IX Advisors, Title IX Decision-makers, Title IX Appeal Officers, and Informal Resolution Facilitators. These individuals are referred to collectively as the College's Title IX Pool.

The assigned Deputy Title IX Coordinator may also act as the Title IX Decision-maker unless also serving as an Informal Resolution Facilitator.

14.4.2 Membership

14.4.2.1 Membership selection for the Title IX Pool shall be at the discretion of the Title IX Coordinator and shall include, at a minimum, Employees (both academic and non-academic) with administrative responsibilities at the College that are not related directly to Title IX.

14.4.2.2 Employees whose responsibilities already include the administration of Title IX at the College, either specifically or in an oversight or compliance capacity, may not serve in the Title IX Pool, including, but not limited to, the Chancellor, the Provost, the General Counsel and other College legal staff, the Chief Human Resources Officer, the Title IX Coordinator, any Deputy Title IX Coordinators, and personnel from ODR.

14.4.2.2 At the Title IX Coordinator's discretion, the College may draw upon qualified individuals from outside the College to serve in the Title IX Pool.

14.4.3 Required Training

All members of the Title IX Pool shall have completed specialized Title IX training and shall continue to receive and complete additional such training at least annually and more often as necessary as determined by the Title IX Coordinator. This training is tailored to different roles and generally includes, but is not limited to, the following topics:

- The provisions of this AP and other College policies and procedures related to Discrimination and Harassment;
- Applicable laws, regulations, and federal guidance;
- Maintaining impartiality and objectivity and avoiding biases, including implicit bias;
- Determining and implementing appropriate Supportive Measures;

- Conducting thorough and impartial investigations;
- Conducting Administrative Resolution Process and appeal proceedings;
- Conducting questioning;
- Weighing evidence, including assessing credibility and relevance;
- How to reach decisions and generate clear, concise, evidence-based written findings;
- Determining and implementing appropriate Disciplinary Sanctions;
- Using technology commonly utilized in the Title IX process.
- Training resources used shall be available on the Title IX website.

14.5 Reporting Title IX Sex-based Harassment

14.5.1 Sex-Based Harassment may be reported to the College using any of the following methods:

- Contacting the Title IX Coordinator or a Deputy Title IX Coordinator) by any method, including, but not limited to, by telephone, email, or in-person (contact information can be found on the Title IX Coordinator’s website);
- Contacting the College’s Office of Dispute Resources (“ODR”) by any method, including anonymously (contact information and instructions for submitting anonymous reports can be found on ODR’s website)

14.5.2 Title IX Sex-Based Harassment may be Reported without submitting a Title IX Complaint. The College will take appropriate action in response to all Reports, whether formal or informal. However, only Title IX Sex-Based Complaints will be addressed according to the College’s Title IX Sex-Based Harassment Resolution Process. Reports that can reasonably be interpreted as requesting an investigation or that the College proceed with the resolution process

are Complaints. The Title IX Coordinator or assigned Deputy Title IX Coordinator shall confirm allegations and the desire to proceed with the Resolution Process.

14.5.3 Individuals reporting Title IX Sex-Based Harassment shall be informed of the following:

- Their right to submit or not to submit a Title IX Complaint;
- Their right to submit a Title IX Complaint in the future, if they decline to do so at the time of reporting;
- Their right to receive Supportive Measures whether or not they submit a Title IX Complaint;
- A Title IX Complaint must be submitted in order for the College to initiate the Title IX Resolution Process unless the Title IX Coordinator determines that the circumstances warrant proceeding under the Title IX Resolution Process.

14.6 Emergency Removal or Administrative Leave

14.6.1 The Title IX Coordinator may order Emergency Removal from College Educational Programs or Activities following an individualized safety and risk analysis that determines that an immediate threat to the physical health or safety of any Student or other individual arising from the allegations of Sex-Based Harassment justifies removal. The Emergency Removal shall continue at the discretion of the Title IX Coordinator as long as reasonably necessary.

14.6.2 The Title IX Coordinator may order that a non-student Employee be placed on Administrative Leave with Pay when the Title IX Coordinator determines that Administrative Leave is reasonably necessary to 1) reduce or eliminate the possibility of continuing Title IX Sex-Based Harassment, 2) restore equal access to Educational Programs and Activities, and/or 3) facilitate investigation of relevant allegations.

14.6.2 Review of Emergency Removal or Administrative Leave Orders

14.6.2.1 The Office of General Counsel shall maintain a Pool of outside attorneys who are available to hear and decide requests for review of the Title IX Coordinator’s Emergency Removal or Administrative Leave determination.

14.6.1.2 Subjects of Emergency Removal or Administrative Leave under Section 14 of this Administrative Procedure may:

- Request review of the Title IX Coordinator’s initial determination within five (5) working days of Emergency Removal or Administrative Leave notification by submitting a written request for review to the Title IX Coordinator. The request must include the specific reasons why Emergency Removal or Administrative Leave is believed to be inappropriate.
- Request that the Title IX Coordinator end, adjust, or replace an existing order of Emergency Removal or Administrative Leave order due to a significant change in circumstances.

If denied, a written request for review that contains specific reasons why the denial was inappropriate must be received by the Title IX Coordinator within five (5) working days of notification of the Title IX Coordinator’s determination.

14.6.1.3 The Office of General Counsel shall appoint a reviewer from the Pool who may uphold, modify, or overturn the Title IX Coordinator’s Emergency Removal or Administrative Leave determination if the reviewer determines that the determination was Clearly Erroneous. The reviewer’s determination shall be final.

14.7 Submission of Title IX Complaints

14.7.1 Title IX Complaints may be submitted to the Title IX Coordinator or a Deputy Title IX Coordinator.

14.7.2 A Title IX Complaint need not be in writing or be signed, but must include enough factual allegations to determine that, if proven to be

true, Title IX Sex-Based Harassment may have occurred, and must reasonably infer a request that the College investigate the allegations.

- 14.7.3 Only current Students and Employees, and persons currently attempting to access the College's Education Programs and Activities may be a Complainant to a Title IX Complaint.

In certain circumstances, the Title IX Coordinator or Deputy Coordinator may sign a Complaint to initiate the Title IX process, including when the Complainant is not attempting to access the College's Educational Programs and Activities.

Except in circumstances where a Title IX Coordinator has determined it is appropriate to sign a Complaint to initiate the Title IX process, former Students and Employees, and persons not currently attempting to access the College's Educational Programs and Activities, may submit complaints of Sex-Based Harassment and other prohibited Discrimination and Harassment through other College processes.

- 14.7.4 Title IX Complaints may not be submitted anonymously or confidentially (*i.e.*, with the name of the Complainant withheld).
- 14.7.5 Once a Title IX Complaint has been received, the College will offer Supportive Measures to both the Complainant and the Respondent on an equitable basis. If the College was already providing Supportive Measures prior to the submission of the Title IX Complaint, the College will continue to do so or provide new or appropriately modified Supportive Measures.

14.8 Title IX Complaints against Multiple Respondents

- 14.8.1 In the interest of fairness and clarity, all allegations in a single Title IX Complaint should generally be against a single Respondent.
- 14.8.2 A single Title IX Complaint may, at the discretion of the Title IX Coordinator (or designee) be brought against more than one Respondent if 1) all factual allegations arise from substantially the same event(s) and circumstances, 2) the Complainant clearly identifies which factual allegations are against which Respondent(s), and 3) doing so would not materially prejudice the interests of any party or the jeopardize the College's full and fair resolution of the

matter (*e.g.*, by creating an unreasonable risk of unfair “guilt by association”).

14.9 Discretionary Inclusion of Other Discrimination or Harassment Allegations in Title IX Complaints

14.9.1 If a Title IX Complaint alleges additional forms of Discrimination or Harassment prohibited by this AP, the Title IX Coordinator (or designee) shall have the discretion to either 1) separate the additional allegations from the Title IX Complaint and forwarded to the appropriate College department to address those allegations, or 2) direct that the additional allegations be investigated and resolved as part of the Title IX Complaint process in the same manner as the allegations of Title IX Sex-Based Harassment.

14.9.2 The Title IX Coordinator (or designee) shall provide written notice to all parties of the decision.

14.10 Notice to Respondent of a Title IX Complaint

Upon receipt of a Title IX Complaint and prior the commencement of the investigation, the Title IX Coordinator (or designee) shall provide timely written Notice of Investigation and Allegations (NOIA) to the Respondent. The NOIA must include all of the following:

- The identities of the Parties involved, including Complainant;
- A meaningful summary of the allegations, including the specific conduct in which the Respondent allegedly engaged that is believed to constitute Title IX Sex-Based Harassment, including the date and location when each incident of such conduct is alleged to have occurred;
- The College policies allegedly violated by the Respondent (including citations);
- A general description of the sanctions which may be imposed if the Respondent is determined to be responsible for the alleged violations;
- A citation to any applicable College policies and procedures, including, but not limited to, this AP;

- A statement informing Respondents of their right to a Title IX Advisor;
- A statement informing Respondents that an investigation will be conducted and of their right to be accompanied by their Advisor to inspect and review any evidence obtained during that investigation;
- A statement that the Respondent is presumed not responsible for the alleged violations until determined otherwise at the conclusion of the Title IX Complaint process;
- A statement that College policy prohibits making false statements or knowingly submitting false information during any College investigation.

14.11 Prohibition against “Gag Orders”

Notwithstanding any other College policies or procedures, the College may not impose a “gag order” on the parties to a Title IX Complaint or otherwise restrict the ability of either party to discuss the allegations in, or to gather evidence during any investigation into, Title IX Complaint.

Provisions requiring parties to maintain confidentiality of information or records that are confidential by law, such as FERPA, HIPPA, or that is personally identifiable information (PII) does not constitute a “gag order.”

14.12 Assessment of Title IX Complaints - Discretionary Dismissals

14.12.1 Discretionary Dismissal

14.12.1.1 At any time during the Title IX Complaint process, the Title IX Coordinator (individually or upon the recommendation of a Deputy Title IX Coordinator or Decision-maker) may dismiss a Title IX Complaint, in whole or in part, if one or more of the following occurs:

- The College is unable to identify the Respondent after taking reasonable steps to do so.

- The College no longer enrolls or employs the Respondent.
- A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Title IX Coordinator declines to initiate a Complaint.
- The College determines the conduct alleged in the Complaint would not constitute a violation of this AP, if proven.

14.12.2.2 If the Complainant ceases to be a Student or Employee of the College while a Title IX Complaint is pending, the Title IX Complaint process will generally continue, provided the Complainant continues to participate as required. A Title IX Complaint may be dismissed at the discretion of the Title IX Coordinator if a Complainant who is no longer a Student or Employee fails to participate after being given a reasonable opportunity to do so (*e.g.*, participating remotely, extending timelines, etc.).

The Title IX Coordinator may also opt to sign the Complaint after having considered the Complainant's wishes and evaluated whether an investigation is not clearly unreasonable in light of the specific circumstances, including, but not limited to if the Title IX Complaint alleges Title IX Sex-Based Harassment that could reasonably harm or threaten the general College Community, rather than just the individual original Complainant.

14.12.3 Notice of Dismissal

The Title IX Coordinator will promptly and simultaneously provide written notice of the discretionary dismissal of a Title IX Complaint to both parties and include a specific rationale for the dismissal. The notice shall include information about submission and resolution of any applicable appeals.

14.12.4 Discretionary Dismissals – Additional Considerations

- 14.12.4.1 Complaints or specific allegations that are dismissed as Title IX Complaints, to the extent they fall outside of Title IX Sex-Based Harassment jurisdiction, should be referred to other College departments as appropriate for consideration and/or proceedings in accordance with other College policies and procedures (*e.g.*, Employee Handbook or Student Code of Conduct).
- 14.12.4.2 Complainants who choose to withdraw their Title IX Complaints or any of their Title IX Sex-Based Harassment allegations may subsequently refile them as Title IX Complaints.
- 14.12.4.3 Decisions by the Title IX Coordinator or designee to dismiss Title IX Complaints may be appealed by either party according to the applicable procedures (See Section 14.18 of this AP).
- 14.12.4.4 The dismissal of a Title IX Complaint for any reason shall not preclude or impair the College's ability to offer, institute, or continue Support Measures for any party.

14.13 Right to a Title IX Advisor

- 14.13.1 All parties to Title IX Sex-Based Harassment Complaints may choose to have one Title IX Advisor of their choosing, from inside or outside the College Community, during all stages of the process (*e.g.*, during interviews, meeting, and hearings) provided the parties' chosen advisors are not College legal counsel, Title IX Coordinators, Deputy Coordinators, or Investigators, or are not otherwise unwilling or unable to, or prohibited from, participating. Title IX Advisor training materials are available on the Title IX website for party-selected Title IX Advisors. When allegations against students meet the definition of Major Misconduct in the Student Code of Conduct, the Student Respondent may also be actively assisted by an attorney at the student's own expense in any meetings with the decision-maker.
- 14.13.2 Parties may choose Attorneys to serve as their Title IX Advisors at the parties' own personal expense. Title IX Advisors fulfill the same

function and are bound by the same rules, regardless of whether they are Attorneys or non-Attorneys.

- 14.13.3 Trained Title IX Advisors from the College's Title IX Pool shall be made available to both parties at no cost by requesting through the Title IX Coordinator.
- 14.13.4 Parties may change their Title IX Advisors at any time and are expected to notify the Title IX Coordinator of any changes at least two (2) Business Days before any scheduled meetings, interviews, or hearings. Regardless of any changes that have occurred, parties may only be accompanied by one Title IX Advisor to a particular meeting, interview, or hearing. Parties generally may not change their selection of Title IX Advisors during a particular meeting, interview, or hearing, absent exceptional circumstances and only with the approval of the Title IX Coordinator (or designee).

14.14 Title IX Advisors' Roles and Responsibilities

- 14.14.1 All Title IX Advisors, including those selected or appointed from the College's Title IX Pool, have the duty and responsibility, first and foremost, to consider the best interests of, and provide candid advice to, the parties they advise to the best of the Title IX Advisors' abilities within the parameters set by this AP and any accompanying College procedures.
- 14.14.2 Title IX Advisors are expected to be available at scheduled dates and times to attend Title IX Sex-Based Harassment Complaint proceedings in person as required. Dates and times may be adjusted to accommodate Title IX Advisors, and/or proceedings may be conducted remotely (by telephone or video conference), at the sole discretion of the Title IX Coordinator (or designee) if doing so would not unreasonably delay the proceedings, or unfairly prejudice or burden another party.
- 14.14.3 Title IX Advisors are required to abide by the College's rules of civility and decorum described in this Section and to advise their respective parties without being disruptive. Title IX Advisors may be excluded from any proceeding and/or replaced by the College if they repeatedly violate College policy or cause Substantial Disruptions.

- 14.14.4 Title IX Advisors may not address College officials during meetings, interviews, or hearings with their respective advised parties unless specifically authorized to do so under College policy or invited to speak by the College officials in question.
- 14.14.5 Parties are expected and required to speak for themselves during the Title IX Sex-Based Harassment Complaint process, including during investigations and hearings. Advisors may not present evidence or arguments in favor of their advised parties, object to questions, speak on behalf of their advised parties at any time during the Title IX Sex-Based Harassment Complaint process.
- 14.14.6 Parties are expected and required to communicate with College officials themselves about Title IX Sex-Based Harassment Complaint proceedings. Requests that College officials communicate with parties through attorneys or their Title IX Advisors will be declined.
- 14.14.7 Parties may consult with their Title IX Advisors as needed during any part of the Title IX Sex-Based Harassment Complaint process and may request reasonable breaks during any proceedings to consult privately.
- 14.14.8 Parties may share otherwise confidential information and documents with their Title IX Advisors and may request that the College share such information with their Title IX Advisors, or allow them to access it directly, by completing any required release in accordance with applicable College policy (e.g., a FERPA release for a student's education records) Title IX Advisors are required to maintain the confidentiality of any information shared with them and may be prohibited from acting as Title IX Advisors or subject to disciplinary action by the College if they fail to do so.
- 14.14.9 Parties' selected Title IX Advisors may request to meet or otherwise confer with the Title IX Coordinator (or designee) prior to interviews, meetings, and hearings with their respective advised parties for guidance on the College's Title IX Sex-Based Harassment Complaint process and to clarify the role and responsibilities of Title IX Advisors.

14.15 Informal Resolution of Title IX Reports and Complaints

14.15.1 To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator or assigned Deputy Title IX Coordinator at any time prior to a final determination, or the Title IX Coordinator or assigned Deputy Title IX Coordinator may offer the option to the Parties, in writing. The College will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

14.15.2 Before initiation of an Informal Resolution process, the Title IX Coordinator or assigned Deputy Title IX Coordinator will provide the Parties with a NOIA that explains:

- The allegations.
- The requirements of the Informal Resolution process.
- That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume the College's Resolution Process.
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will preclude the Parties from initiating or resuming the Resolution Process arising from the same allegations.
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties.
- What information the College will maintain, and whether and how it could disclose such information for use in its Resolution Process.

14.15.3 The College offers four categories of Informal Resolution:

14.15.3.1 Supportive Resolution

When the Title IX Coordinator or a Deputy Title IX Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation.

The Title IX Coordinator or Deputy Title IX Coordinator will meet with the Complainant to determine reasonable

Supportive Measures. Such measures can be modified as needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Deputy Title IX Coordinator or Deputy Title IX Coordinator may also provide reasonable supportive measures for the Respondent. This option is available when the Complainant does not want to engage the other resolution options, and the Title IX Coordinator or Deputy Title IX Coordinator does not initiate a Complaint.

14.15.3.2 Educational Conversation

The Title IX Coordinator or a Deputy Title IX Coordinator may resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and the College's expectations.

The Complainant(s) may request that the Title IX Coordinator or a Deputy Title IX Coordinator address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and institutional policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the Informal Resolution for the matter if it takes place. In light of this conversation, or the Respondent's decision not to attend, the Title IX Coordinator or Deputy Title IX Coordinator may also implement non-punitive Responsive Actions to ensure that policies and expectations are clear and to minimize the risk of the recurrence of any behaviors that may not align this AP

14.15.3.3 Accepted Responsibility

Informal Resolution may also be utilized when the Respondent is willing to accept responsibility for the conduct alleged to be in violation of this AP and is willing to agree to actions that will be enforced similarly to Disciplinary Sanctions, and the Complainant(s) and the College are agreeable to the resolution terms.

- 14.15.3.3.1 The Respondent may accept responsibility for any or all of the alleged violations of this AP at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility, the process will be paused, and the Title IX Coordinator or a Deputy Title IX Coordinator will determine whether Informal Resolution is appropriate.
- 14.15.3.3.2 If Informal Resolution is available, the Title IX Coordinator or Deputy Title IX Coordinator will determine whether all Parties and the College are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Title IX Coordinator or Deputy Title IX Coordinator shall document that Respondent has accepted responsibility for engaging in conduct in violation of College Policy, implement agreed-upon restrictions and remedies, and determine the appropriate responses in coordination with other appropriate Title IX Coordinator(s), as necessary.
- 14.15.3.3.3 This Informal Resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Resolution Process will either continue or resume.
- 14.15.3.3.4 When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the discrimination or harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.
- 14.15.3.4 Alternative Resolution

The Parties may agree to resolve the matter informally through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

14.15.3.4.1 The College offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. All Parties must consent to Alternative Resolution, and the Parties may, but are not required to, have direct or indirect contact with each other during an alternative resolution process.

14.15.3.4.2 The Title IX Coordinator may consider the following factors to assess whether alternative resolution is appropriate, or which form of alternative resolution may be the most suitable for the Parties.

- The Parties' amenability to alternative resolution;
- Likelihood of potential resolution, considering any power dynamics between the Parties;
- The nature and severity of the alleged misconduct;
- The Parties' motivation to participate;
- Civility of the Parties;
- Results of a violence risk assessment/ongoing risk analysis;
- Respondent's prior disciplinary history;
- Whether an emergency removal or other interim action is needed;
- Skill of the facilitator with this type of Complaint;
- Complaint complexity;
- Emotional investment/capability of the Parties;
- Rationality of the Parties;
- Goals of the Parties;
- Adequate resources to invest in alternative resolution (e.g., time, staff).

14.15.3.4.3 The Title IX Coordinator or assigned Deputy Title IX Coordinator has the authority to determine whether alternative resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, often including terms of confidentiality, release, and non-disparagement.

- 14.15.3.4.4 Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process.
- 14.15.3.4.5 The Title IX Coordinator or assigned Deputy Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in dissolution of the agreement, resumption of the Resolution Process, and the imposition or Responsive Action.
- 14.15.3.4.6 The results of Complaints resolved informally by alternative resolution are not appealable.
- 14.15.3.4.7 If an Informal Resolution option is not available or selected, the College will initiate or continue an investigation and subsequent Resolution Process to determine whether this AP has been violated.
- 14.15.4 The individual facilitating an Informal Resolution must be trained and cannot be the Investigator, Decision-maker, or Appeal Decision-maker.
- 14.15.5 It is not necessary to pursue Informal Resolution first in order to pursue an Administrative Resolution Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Administrative Resolution Process.
- 14.15.6 The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Administrative Resolution, should Informal Resolution not be successful, unless agreed to by all Parties.
- 14.15.7 If an investigation is already underway, the Title IX Coordinator or assigned Deputy Title IX Coordinator has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

- 14.16 Title IX Complaint Administrative Resolution Process
- 14.16.1 The Administrative Resolution Process is used for all Complaints of Sex-Based Harassment as defined in this AP when Informal Resolution is either not elected or is unsuccessful.
- 14.16.2 The Administrative Resolution Process consists of submitting the investigation report and all relevant evidence to the Title IX Decision-maker, which may be the Title IX Coordinator or a Deputy Title IX Coordinator, to make a finding and determine sanctions (if applicable).
- 14.16.3 At the discretion of the Title IX Coordinator, the Title IX Coordinator may assign a separate Title IX Decision-maker who may be drawn from the Title IX Pool, or other trained individuals either internal or external to the institution. Once the Title IX Decision-maker receives and reviews the file, the Title IX Decision-maker can recommend dismissal to the Title IX Coordinator, if they believe the grounds are met.
- 14.16.4 The Administrative Resolution Process typically takes approximately thirty (30) business days to complete, beginning with the Title IX Decision-maker's receipt of the Draft Investigation Report. The Parties will be regularly updated on the timing and any significant deviation from this typical timeline.
- 14.16.5 Evidentiary Considerations
- 14.16.5.1 The Investigator(s) and the Decision-maker(s) will only consider evidence that is deemed relevant and not otherwise impermissible.
- 14.16.5.2 Relevant Evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of this AP.
- 14.16.5.3 Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or 2) is evidence about specific

incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent.

- 14.16.5.4 The fact that prior consensual sexual conduct occurred between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that Sex-Based harassment occurred.
- 14.16.5.5 Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.
- 14.16.5.6 Within the limitations stated above, the investigation and determination can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

14.16.6 Investigator-led Questioning Meetings

- 14.16.6.1 The Title IX Coordinator or assigned Deputy Title IX Coordinator provides the Draft Investigation Report to the Title IX Decision-maker, if a separate Title IX Decision-maker is assigned, and the Parties simultaneously for review. The Title IX Decision-maker can then provide the Investigator with a list of relevant questions to ask the Parties or any witnesses.

To the extent credibility is in dispute and relevant to one or more of the allegations, the questions provided by the Title IX Decision-maker may also explore credibility.

- 14.16.6.2 The Investigator will also ask each of the Parties to provide a proposed list of questions to ask the other Parties and any witnesses.

- 14.16.6.2.1 To the extent credibility is in dispute and relevant to one or more of the allegations, questions proposed by the Parties may also explore credibility.

- 14.16.6.2.2 All Party questions must be posed during this phase of the process and cannot be posed later unless authorized by the Title IX Decision-maker.
- 14.16.6.2.3 The Investigator will share all Party-proposed questions with the Title IX Decision-maker, who will finalize the list with the Investigator to ensure all questions are both relevant and permissible.
- 14.16.6.3 The Investigator will then hold individual meetings with the Parties and witnesses to ask the questions posed by the Title IX Decision-maker, as well as the questions proposed by the Parties that have been deemed relevant and not duplicative, including questions intended to assess credibility. These meetings will be recorded and transcribed.
- For any question deemed not relevant or duplicative, the Investigator will provide a rationale for not asking the question, either during the recorded meeting, or in writing (typically as an appendix to the Final Investigation Report).
- 14.16.6.4 Typically, within three (3) business days of the last of these meetings, the recordings or transcripts of them will be provided to the Parties for their review. The Parties will then have five (5) business days to review these recordings or transcripts and propose any follow-up questions for the Investigator to ask.
- 14.16.6.5 The Investigator will review the proposed questions with the Title IX Decision-maker to determine relevance and permissibility. If deemed necessary, the Investigator will then meet individually with the Parties or witnesses for whom there are relevant, and not duplicative, follow-up questions. These follow-up meetings will also be recorded, and the Parties will receive the recordings or transcripts of these meetings. This final round of questioning is the last round permitted, unless permission is granted to extend by the Title IX Decision-maker.
- 14.16.6.6 The Investigator will then incorporate any new, relevant evidence and information obtained through the Parties' review

of the Draft Investigation Report, the questioning, and follow-up meetings into a Final Investigation Report.

- 14.16.6.7 The Investigator will also respond in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report and incorporate relevant elements of the Parties' written responses, additional relevant evidence, and any necessary revisions into the Final Investigation Report.
- 14.16.6.8 The Investigator will then share the Final Investigation Report with the Title IX Coordinator, assigned Deputy Title IX Coordinator, and/or legal counsel for their review and feedback.
- 14.16.6.9 The Investigator will then provide the Title IX Coordinator or assigned Deputy Title IX Coordinator with the Final Investigation Report and investigation file.

14.16.7 The Decision-maker's Determination

- 14.16.7.1 The Title IX Coordinator will provide the separate Title IX Decision-maker, if appointed, the Parties, and their Title IX Advisors with the Final Investigation Report (FIR) and investigation file, including the evidence and information obtained through the Investigator-led Questioning meetings.
- 14.16.7.2 The Title IX Decision-maker will review the FIR, all appendices, and the investigation file.
- 14.16.7.3 If the record is incomplete, the Title IX Decision-maker may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informal meetings with the Parties or any witnesses, if needed.
- 14.16.7.4 Upon reviewing the relevant evidence, the Title IX Decision-maker may also choose to pose additional questions:
- 14.16.7.5 To the extent credibility is in dispute and relevant to one or more of the allegations, the Title IX Decision-maker may meet individually with the Parties and witnesses to question them in order to assess their credibility. These meetings will be

recorded, and the recording or transcript will be shared with the Parties.

- 14.16.7.6 At their discretion, the Title IX Decision-maker may also meet with any party or witness to ask additional relevant questions that will aid the Title IX Decision-maker in making their findings. These meetings will be recorded, and the recording or transcript will be shared with the Parties.
- 14.16.7.7 The Title IX Decision-maker will then apply the preponderance of the evidence standard to make a determination on each of the allegations and, if applicable, any associated sanctions.
- 14.16.7.8 Timeline. The Title IX Decision-maker's determination process typically takes approximately ten (10) business days, but this timeframe can vary based on a number of factors and variables. The Parties will be notified of any delays.
- 14.16.7.9 Impact Statements. Prior to a determination, the Title IX Coordinator or assigned Deputy Title IX Coordinator will also provide the Parties with an opportunity to submit a written impact and/or mitigation statement. The Title IX Coordinator or assigned Deputy Title IX Coordinator will review these statements upon receipt to determine whether there are any immediate needs, issues, or concerns, but will otherwise hold them until after the Title IX Decision-maker has made determinations on the allegations. If there are any findings of a violation of this AP, the Title IX Decision-maker will request the Impact Statements from the Title IX Coordinator and review them prior to determining sanctions. They will also be exchanged between the Parties at that time.

If the assigned Deputy Title IX Coordinator is also serving as the Title IX Decision-maker, the Title IX Coordinator or a different Deputy Title IX Coordinator will request and hold the Impact Statements.

- 14.16.7.10 If it is later determined that a Party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a Resolution Process at any time, and/or referring that information to another process for resolution.

14.17 Imposition of Educational Measures and Disciplinary Sanctions

- 14.17.1 Educational Measures and Disciplinary Sanctions will be imposed in accordance with the College policies and procedures applicable to the affected party, including, but not limited to, the Employee Handbook and the Student Code of Conduct. The Title IX Appeal process is the sole review or appeal process for decisions within Title IX jurisdiction (see Section 14.18 below). Any additional review processes in other College policies and procedures are not applicable.
- 14.17.2 Factors the Decision-maker may consider when determining sanctions and responsive actions include, but are not limited to:
- The nature, severity of, and circumstances surrounding the violation(s)
 - The Respondent's disciplinary history
 - The need for sanctions/responsive actions to bring an end to the sex discrimination, Sex-Based harassment, and/or retaliation
 - The need for sanctions/responsive actions to prevent the future recurrence of sex discrimination, Sex-Based harassment, and/or retaliation
 - The need to remedy the effects of the sex discrimination, Sex-Based harassment, and/or retaliation on the Complainant and the community
 - The impact on the Parties
 - The Respondent's acceptance of responsibility
 - Any other information deemed relevant by the Decision-maker
- 14.17.3 The sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.
- 14.17.4 The sanctions described in this AP are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

14.18 Appeals of Title IX Decisions

Appeals of certain Title IX decisions may be submitted, and acceptable appeals will be considered and decided in a timely manner, as described below.

14.18.1 Who May Appeal

Any party to a Title IX Complaint (*i.e.*, a Complainant or Respondent) may submit an appeal of an appealable issue on an appealable basis (see Section 14.18.2 and Section 14.18.4). Parties may likewise submit cross-appeals, including cross-appeals about the same issues (*e.g.*, the Respondent may appeal a sanction on the basis it is too harsh, and the Complainant may appeal the same sanction on the basis that it is too lenient).

14.18.2 What May Be Appealed

The following may be appealed pursuant to the Title IX appeal processes stated below in this section of this AP:

- Decisions by the Title IX Coordinator to dismiss a Title IX Complaint pursuant to Section 14.12 of this AP;
- Decisions by the Title IX Decision-maker on allegations of Title IX Sex-Based Harassment, including, but not limited to, decisions about responsibility for the violation(s) alleged, whether or not to impose Educational Measures and/or Disciplinary Sanction, and the specific types or degrees of Educational Measures and/or Disciplinary Sanctions imposed (*e.g.*, if they were too harsh or too lenient).

14.18.3 Submitting an Appeal

Appeals shall be submitted in writing to the Title IX Coordinator (or designee) within five (5) Business Days of the appealing party's receipt of the Title IX Decision-maker's written decision. Appeals must state an acceptable basis for appeal (see Section 14.18.4 of this AP) and be supported by specific factual information and/or College policy arguments.

Appeals **will not be considered** if they are submitted 1) without specific factual support and/or policy arguments, or 2) solely with conclusory or speculative allegations or arguments not based on College policy. Appeals which only recite one or more Acceptable Bases for Appeal (see Section 14.18.4 below) without supporting facts or explanation will be denied.

14.18.4 Acceptable Bases for Appeal

Appeals are limited to and must be based on one or more of the following acceptable bases:

- A Material Error in Process occurred that affected or reasonably could have that would change the outcome;
- The discovery of new relevant evidence that was not reasonably available at the time an appealable decision was made that reasonably would change the outcome;
- Bias or a material conflict of interest on the part of the Title IX Coordinator, Investigator, or Title IX Decision-maker for or against complainants or respondents generally or the specific Complainant or Respondent that would change the outcome;
- The decision being appealed was Clearly Erroneous in light of all information known at the time it was made.

14.18.5 Status of Educational Measures and Disciplinary Sanctions While an Appeal Is Pending

Educational Measures or Disciplinary Sanctions imposed by the Title IX Decision-maker that are the subject of an appeal are generally stayed (*i.e.*, their imposition is postponed temporarily) while the appeal is pending, unless specifically decided otherwise by the Title IX Coordinator. Supportive Measures may be continued, reinstated, or modified at the discretion of the Title IX Coordinator, pending resolution of the appeal.

14.18.6 Notice of Appeal to All Parties

The Title IX Coordinator (or designee) shall notify all parties in writing of the appeal and provide them with copies of the appeal document along with information regarding their rights in the appeal process, including, but not limited to, their right to respond in writing to the appeal and the process for doing so.

14.18.7 Appellee Responses to Appeals

Appellees shall have a reasonable opportunity, up to (5) Business Days, to provide written responses to Appellants' appeals. Written responses should be delivered to the Title IX Coordinator (or designee), who will provide copies to Appellants.

14.18.8 Designating the Title IX Appeal Decision-maker

The Title IX Coordinator shall designate a Title IX Decision-maker selected from the Title IX Pool.

14.18.9 Title IX Appeal Processes

14.18.9.1 Title IX Appeal Decision-maker decisions will generally be based on the written submissions of parties and the information already in the evidentiary record.

14.18.9.2 Title IX Appeal Decision-makers may submit additional written questions to Appellants and Appellees to be answered in writing.

14.18.9.3 Additional evidence will generally not be considered unless it is necessary to demonstrate the existence of new evidence that 1) could not reasonably have been discovered at the time of the Title IX Decision-maker's determination, and 2) is substantially likely to have affected the Title IX Decision-maker's decision, had it been available at the time.

14.18.11 Title IX Appeal Decisions

- 14.18.11.1 Title IX Appeal Decision-maker should give a great deal of deference to Title IX Decision-makers' and Title IX Coordinator's decisions and only change or overturn a decision if the Title IX Appeal Decision-maker is firmly convinced that the decision was in error, even if the Title IX Appeal Decision-maker might have reached a different conclusion.
- 14.18.11.2 When deciding appeals, Title IX Appeal Decision-maker may 1) deny the appeal and affirm the decisions, 2) affirm the decision that a violation occurred but reduce or increase the Educational Measure or Disciplinary Sanction, or 3) grant the appeal in its entirety and remand the matter to the decision-maker for further proceedings and/or a new decision (consistent with the Title IX Appeal Decision-maker's findings).
- 14.18.11.3 Title IX Appeal Decision-maker decisions must be in writing and provide sufficient detail to reasonably inform the parties and the Title IX Coordinator of the bases for the decisions.

14.18.12 Finality of Title IX Appeal Decisions

Decisions of Title IX Appeals Decision-maker are final, and no further review of the appealed decisions shall be available under other College policies or procedures, including, but not limited to, the Employee Handbook, Student Code of Conduct, or any requests for direct intervention by the Chancellor, Provost, Governing Board, or any other College administrator or official.

See Section 10.09 for information on outside agency complaint information.

14.18.13 Notice of Title IX Appeal Decisions

The Title IX Appeal Decision-maker shall provide the written decision to the Title IX Coordinator and the assigned Deputy Title

IX Coordinator shall provide copies of the decision to the parties and the Title IX Decision-maker (if applicable). The Title IX Coordinator shall include with the decision a notice informing the parties of any right they may have under other applicable College policies or procedures (*e.g.*, the Employee Handbook or Student Code of Conduct) to request review of any Title IX Appeal Decision-maker's decision for non-Title IX Sex-Based Harassment (*e.g.*, for a final review of a termination or expulsion decision, if available).

14.19 Withdrawal or Resignation of Respondent While a Title IX Complaint Is Pending (Including During Appeal)

In addition to the provisions of Section 14.12 above (dismissals), the following considerations are applicable in the event of the withdrawal of a Student Respondent or Resignation of an Employee Respondent while a Title IX Complaint is pending against them:

14.19.1 Withdrawal of a Student Respondent

If a Student Respondent withdraws from or otherwise ceases to be enrolled at the College while a Title IX Complaint is pending and does not continue through the Title IX process, the Student will not be permitted to re-enroll at the College. The College may place a hold on the Student's account, prohibit the Student from being on College Property or attending or participating in College Sponsored Events, and/or restrict the Student's ability to receive a degree or certificate, or participate in the College's graduation ceremony.

14.19.2 Resignation of an Employee Respondent

If an Employee Respondent resigns from or otherwise ceases to be employed at the College while a Title IX Complaint is pending and does not continue through the Title IX process, the Employee will not be eligible for rehire for any position with the College. Records retained by the respective offices of the Title IX Coordinator and the Chief Human Resources Officer will reflect the Employee's ineligible status. The College may also prohibit the Employee from being on College Property or attending or participating in College Sponsored Activities, including, but not limited to, being enrolled as a Student.

SECTION 15: Recordkeeping

- 15.1 The College shall maintain all records of proceedings undertaken pursuant to this AP in accordance with the College's record-retention policies and applicable state and federal laws. Records related to the Title IX Resolution Process shall be maintained for a period of at least seven (7) years following the conclusion of the Resolution Process.
- 15.2 The College shall maintain a centralized electronic database of all documentation associated with alleged violations of this AP, including, but not limited to, reports and Complaints, evidentiary documentation (including any audio or video recordings), investigatory reports, and written decisions.
- 15.3 The Chancellor designates the College's Office of the General Counsel with the primary responsibility of establishing, maintaining, and overseeing the utilization of the required database in conjunction with all College departments tasked with administering any processes under this AP (*e.g.*, the Office of Dispute Resources ("ODR"), Human Resources ("HR"), the Office of the Dean of Students, the Access and Disabilities Resources Office ("ADR").

SECTION 16: Glossary of Definitions

"ADA" means the Americans With Disabilities Act of 1990 and the Americans With Disabilities Act Amendments Act ("ADAAA") of 2008 and their accompanying federal regulations.

"Administrative Resolution Process" means the processes described in Section 13 and Section 14 of the AP for the investigation and resolution of Title IX Sex-Based Harassment (Section 14) and Title IX Sex Discrimination, including Retaliation, that does not include Title IX Sex-Based Harassment (Section 13).

"ADR" means the College's Office of Access and Disability Resources.

"Adverse Action" means any actions or decisions by the College that have a materially negative effect on the terms and conditions of an Employee's employment, a Student's enrollment, or a member of the College Community's ability to access the College's Education Programs and Activities.

"Advisor" means an individual assisting or supporting a Complainant or Respondent during a Complaint or appeal proceeding, including, but not limited to,

another Student, an Employee; a parent, sibling, or other relative; or a religious or spiritual leader. Advisors may not be Attorneys unless specifically permitted by the applicable Complaint procedure (*e.g.*, the Employee Handbook, the Student Code of Conduct, or this AP). (For Title IX Advisor, see below.)

“Aggravating Factor” means any evidence or information that might warrant addressing alleged Discriminatory or Harassing conduct as a more serious violation of this AP or justify imposing a particular (or harsher) Disciplinary Sanction for a particular violation, including, but not limited to, a history of prior violations by the Respondent, the degree of damage or caused by Respondent’s misconduct (including physical and emotional damage to the Complainant or another member of the College Community), whether the misconduct was planned or spontaneous (*i.e.*, “a crime of passion”), whether the misconduct demonstrates callous disregard or disrespect for others or the College, and whether the Respondent demonstrates a lack of remorse or refuses to accept personal responsibility for the misconduct.

“Anonymous” or “Anonymously” means a person making a Report or Complaint about or providing information during the course of an investigation into, alleged Discrimination or Harassment in violation of this AP does so without disclosing to the College that person’s own identity, and the College is otherwise unaware of who made the Report or Complaint or provided the information in question.

“AP” means Administrative Procedure.

“Appellant” means a Complainant or Respondent appealing a decision of and/or Responsive Action issued by a decision-maker or Title IX Coordinator in accordance with this AP and/or other applicable College policies and procedures (*e.g.*, the Employee Handbook and the Student Code of Conduct).

“Appellee” means a decision-maker, Respondent, and/or Complainant responding to an Appellant’s appeal of a decision-maker’s decision or other matter designated as appealable under this AP or other applicable College policies and procedures (*e.g.*, the Employee Handbook and the Student Code of Conduct).

“BP” means Board Policy.

“Attorney” means a legal professional licensed to practice law in the State of Arizona or another legal jurisdiction within the United States, including U.S. territories and federally recognized Indian/Native American Tribes and in good

standing with that jurisdiction's bar who Actively Assists a Student during a Code Resolution Meeting or appeal hearing.

"Bullying" means a sustained course of conduct involving physical assault, threats of physical assault, harassment, ridicule, or deliberate and gratuitous intimidation of a kind and/or duration which no Reasonable Person could be expected to endure under the circumstances, the purpose or effect of which is to exert dominance over and/or humiliate another member of the College Community.

"Business Day" means between 8:00 a.m. and 5:00 p.m. on a day when the College conducts Ordinary College Operations, excluding Saturdays and Sundays, any officially recognized College holidays, and any other day the College is officially closed for any reason.

"Chief Human Resources Officer" means the College's highest-level non-academic administrator with specific authority over the College's human resources, employee-relations, and employee-services operations of the College, regardless of that individual's title, generally acting under the administrative authority of the College's Executive Vice Chancellor for Finance and Administration.

"Clearly Erroneous" means not supported by competent evidence or reasonable inferences, or constituting such a departure from established College processes and procedures, such that no Reasonable Person could have reached the same decision in light of all of the information at the time.

"Clery Act" means the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990 (20 U.S.C. § 1092).

"College Community" means, collectively, all persons employed by, volunteering for, enrolled in classes at, or visiting the College or attending any College Sponsored Activity, including contractors and consultants retained by the College.

"College Property" means any College Campus, building, or grounds owned, leased, operated, or controlled by the College, as well as any structures, improvements, or equipment thereon.

"College Sponsored Activity" means any event, activity, or endeavor officially approved by the College, on- or off-campus College Property.

“College IT Systems” means all College-owned or -controlled telephones, computers, software, network devices, servers, printers, and other College-owned or -controlled technology equipment, including both hardware and software, as well as the College’s website “pima.edu,” any email with a pima.edu domain name, and/or any information stored or transmitted on College servers.

“Complainant” means an individual who brings a Complaint alleging to have been subjected to or adversely affected by Discrimination, Harassment, or Retaliation in violation of this AP. For Title IX purposes, “Complainant” means a Student or Employee who is alleged to have been subjected to conduct that could constitute Sex discrimination, Sex-Based Harassment, or Retaliation under this AP; or a person other than a Student or Employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination, Sex-Based Harassment, or Retaliation, and who was participating or attempting to participate in the College’s Education Program or Activity at the time of the alleged Sex Discrimination, Sex-Based Harassment, or Retaliation.

“Complaint” means an oral or written request to the College that can objectively be understood as a request for the College to investigate and make a determination about the alleged violation(s) of this AP.

“Confidential” or “Confidentiality” means the College or a particular College Employee involved in the administration of this AP is aware of the identity of a party making a Report or Complaint of Discrimination or, or of the identity of a witness participating in the investigation into or resolution of such a Report or Complaint, but the College or Employee does not disclose or otherwise reveal the identity of the party or witness unless required to do so by law or in order to protect the College Community.

“Confidential Employee” The College does not have any Confidential Employees within the definition of the Title IX regulations.

“Confront” means to oppose directly and contemporaneously, generally in person and face to face, but, at a minimum, in a manner in which one can hear and view the testimony of others against oneself as it is being given.

“Counter-Complaint” means a Complaint submitted by a Respondent against a Complainant, after the Respondent has been notified of, or in response to, the original Complaint, typically about the same alleged incidents and general factual allegations.

“Dating Violence” means violence or other physical, psychological, or emotional abuse directed against an individual by someone with whom that individual is or has been in a social, romantic, or intimate relationship including, but not limited to, acts committed intentionally to frighten, intimidate, coerce, exploit (including economic exploitation), or humiliate the targeted individual or socially isolate them from others.

“Discipline,” “Disciplinary,” or “Disciplinary Sanction” means a punitive consequence to a Respondent as a result of either a) the Respondent admitting to and accepting responsibility for a violation of this AP, or 2) a decision reached pursuant to applicable College processes (including, but not limited to, The Title IX Resolution Process, the Employee Handbook, and the Student Code of Conduct) that the Respondent engaged in a violation of this AP.

“Discrimination” or “Discriminatory” means any adverse treatment based on a person’s actual or perceived membership in one or more Protected Classes with respect to the terms, conditions, and privileges of education, employment, or access to other Educational Programs and Activities at the College. Retaliation is a form of Discrimination.

“Domestic Violence” means violence or other physical, psychological, or emotional abuse directed against an individual by someone with whom that individual currently has or previously had a cohabitational relationship of any kind, including, but not limited to, as a spouse, intimate partner, roommate, or family member, including, but not limited to, acts committed intentionally to frighten, intimidate, coerce, exploit (including economically), or humiliate the targeted individual or socially isolate them from others.

“Education Programs and Activities” means locations, events, or circumstances where the College exercises substantial control over the context in which the Sex Discrimination, Sex-Based Harassment, Retaliation, or other prohibited conduct occurs, includes any building owned or controlled by a student organization that the College officially recognizes, and includes employment opportunities at the College and the College’s employment practices.

“Educational Measure” means any non-punitive, non-Disciplinary consequence of a violation of this AP applicable under any College policy or procedure, including, but not limited to, the Title IX Sex-Based Harassment process, the Employee Handbook, and the Student Code of Conduct. Educational Measures are generally focused on corrective actions and Restorative Justice, and intended to help responsible individuals make amends to those affected by their actions, learn from

the experience, and better understand the College's expectations for them as members of the College Community. The imposition of Educational Measures is generally not appealable unless specified otherwise in applicable College policies or procedures.

“Emergency Removal” is a process by which a respondent is removed from the College's Educational Programs or Activities on an emergency basis. For non-student Employees, Administrative Leave With Pay may be determined to be appropriate without an individualized safety and risk analysis. Neither Emergency Removal nor Administrative Leave modify rights under the Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act, as applicable.

“Employee” means any person employed by the College on a full-time, part-time, temporary, or regular basis or directly engaged in the performance of work under the provision of a contract with the College. This definition does not include unpaid Volunteers.

“Employee Handbook” means the College's published set of employment practices, procedures, and expectations, generally applicable to all academic and non-academic Employees.

“Exculpatory Evidence” is evidence that is favorable to the Respondent, including, but not limited to, evidence that shows or tends to show that the Respondent, more likely than not, did not engage in the specific conduct alleged or otherwise violate this AP.

“Frivolous” or “Frivolously” means lacking any discernible basis in fact or policy.

“Harassment” or “Harassing” means unwelcome conduct in any form directed toward, or differential treatment of, a member of the College Community on the basis of membership or perceived membership in a Protected Class or on any other prohibited basis, including, but not limited to, conduct in any form or on any basis that creates or contributes to a Hostile Environment. Such conduct may include but is not limited to, objectively offensive or degrading remarks or jokes, verbal abuse, use of racial slurs or derogatory comments, displays of objectively offensive symbols or imagery, physical assault, Bullying, Hazing, and Stalking.

“Hazing” includes “hazing planning or organizing.” It is not a defense to hazing if the victim or person against whom the hazing was directed, acquiesced or

consented, whether implied or expressed, to the conduct, or if the conduct was traditional and customary. Hazing is defined in Arizona law as follows:

1. A person commits hazing by intentionally, knowingly or recklessly, for the purpose of pre-initiation activities, pledging, initiating, holding office, admitting or affiliating a minor or student into or with an organization or for the purpose of continuing, reinstating or enhancing a minor's or student's membership or status in an organization, causes, coerces or forces a minor or student to engage in or endure any of the following:
 - a. Sexual humiliation or brutality, including forced nudity or an act of sexual penetration, or both.
 - b. Conduct or conditions, including physical or psychological tactics, that are reasonably calculated to cause severe mental distress to the minor or student, including activities that are reasonably calculated to cause the minor or student to harm themselves or others.
 - c. The consumption of any food, nonalcoholic liquid, alcoholic liquid, drug or other substance that poses a substantial risk of death, physical injury or emotional harm.
 - d. An act of restraint, confinement in a small space or significant sleep deprivation.
 - e. Conduct or conditions that violate a federal or state criminal law and that pose a substantial risk of death or physical injury.
 - f. Physical brutality or any other conduct or conditions that pose a substantial risk of death or physical injury, including whipping, beating, paddling, branding, electric shocking, placing harmful substances on the body, excessive exercise or calisthenics or unhealthy exposure to the elements.
2. A person commits hazing planning or organizing by doing any of the following:
 - a. With the intent to promote or aid the commission of hazing, the person agrees with one or more persons that at least one of them or another person will engage in hazing and one of the parties commits an overt act in furtherance of hazing.
 - b. Intentionally or knowingly engages in conduct that would constitute hazing if the attendant circumstances were as the person believes them to be.
 - c. Intentionally or knowingly does anything that, under the circumstances as the person believes them to be, is any step in a course of conduct planned to culminate in committing hazing.
 - d. Intentionally or knowingly engages in conduct that is intended to aid another to commit hazing, although the hazing is not committed or attempted by the

other person, if the person's conduct would establish the person's complicity under law and the hazing was committed or attempted by the other person.

3. For the purposes of this the definition of hazing, "organization" means any official fraternity, sorority, association, corporation, order, society, corps, cooperative, club, service group, social group, band, spirit group, athletic team or similar group whose members are primarily students at, or former students of, a high school or postsecondary institution.
4. The definition of hazing does not include:
 - a. Customary athletic events, contests or competitions that are sponsored by an educational institution.
 - b. Any activity or conduct that furthers the goals of a legitimate educational curriculum, a legitimate extracurricular program or a legitimate military training program.

“Hostile Environment” means an educational environment or workplace in which Discrimination or Harassment is 1) severe and/or pervasive, 2) objectively offensive, and 3) has the purpose or effect of unreasonably interfering with, limits, or effectively denies a Student, Employee, or other member of the College Community’s Employee’s academic performance or educational opportunities, work performance or employment opportunities, access to or ability to benefit from the College’s other Education Programs and Activities. (See the definition of Title IX Sex-Based Harassment for the Title IX definition.)

“Inculpatory Evidence” is evidence that shows or tends to show a Respondent more likely than not engaged in the specified alleged conduct in violation of this AP.

“Informal Resolution” means a resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a Final Determination in the Resolution Process.

“Investigator” means a College Employee or a third-party retained by the College to investigate and gather evidence related to an alleged Code of Conduct violation.

“Knowing” or “Knowingly” means done in a way that a Reasonable Person would believe shows forethought, deliberate action, or an intention for an outcome to occur.

“Knowledge” means the College received Notice of conduct that may reasonably constitute Sex Discrimination, Sex-Based Harassment, or Retaliation in its Education Program or Activity.

“Legally Recognized Privilege” means a right recognized under Arizona or applicable federal law that allows a party or witness to decline to testify or otherwise cooperate, or to prevent another individual from testifying or cooperating, during the Title IX Complaint process, including, but not limited to spousal/marital privilege, attorney-client privilege, clergy-penitent privilege, and the doctor-patient privilege.

“Malicious” or “Maliciously” means intended merely to harass, intimidate, embarrass, or retaliate against a member of the College Community, to interfere with or disrupt Ordinary College Operations, or to delay a Code of Conduct proceeding.

“Mandated Reporter” means a College employee who is obligated by this AP to share Knowledge, Notice, and/or Reports of sex discrimination, Sex-Based harassment, retaliation, or Other Prohibited Conduct with the Title IX Coordinator. All College employees are Mandated Reporters within the Title IX context.

“Material Error in Process” means a significant mistake or omission in administration of a College process that a Reasonable Person could find affected or likely could have affected the final outcome of a Complaint proceeding or otherwise made the proceeding fundamentally unfair.

“Matter of Substantial College Interest” means any event, action, or incident that does or is reasonably likely to 1) pose an immediate threat to the health and safety of the College Community; 2) constitute a criminal offense as defined by local, state, or federal law (even if no arrest or conviction has been made); 3) damage the reputation or educational mission of the College.

“Mitigating Factor” means any information or evidence that might warrant addressing alleged Discrimination or Harassment as a less serious violation of this AP or justify issuing a lesser (or no) Disciplinary Sanction, including, but not limited to, whether the Respondent admits to or accepts personal responsibility for the violation, the Respondent’s lack of prior violations, the subjective impact of the Respondent’s conduct on the Complainant and/or other members of the College Community, the Respondent’s personal circumstances that might help explain but not excuse the misconduct (*e.g.*, severe stress or provocation), and whether the Respondent demonstrates genuine regret or remorse.

“Negligently” means done in a way that demonstrates a failure to act with the level of care that a Reasonable Person would exercise under the same circumstances.

“Notice” occurs when an Employee, Student, or third party informed a Title IX Coordinator of the alleged occurrence of Sex Discrimination, Sex-Based Harassment, or Retaliation.

“Ordinary College Operations” means all day-to-day business and other functions of the College, including, but not limited to, academic instruction and other Education Programs and Activities, administrative services, performance of employment responsibilities, facilities maintenance and grounds-keeping, creative activity, community events, community, and public relations, campus safety and security, and the maintenance of a College-wide environment and reputation and that is open, accessible, and welcoming to the College Community.

“Pregnancy or Related Conditions” means pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.

“Preponderance of the Evidence” means the decision-maker must determine that, based on the available relevant and credible information, it is more likely than not (*i.e.*, there is a greater than 50% chance) a Respondent engaged in the conduct alleged in a Complaint in violation of the applicable College policy.

“Protected Activity” means good-faith actions undertaken pursuant to the provisions of this AP, including, but not limited to, reporting or expressly opposing specific incidents of Discrimination or Harassment, submitting or responding to a Complaint, participating in investigatory proceedings or hearing (*e.g.*, as a witness), supporting or acting as an Advisor to Complainant or Respondent, or administering Complaint proceedings.

“Protected Class” means a group of individuals with a common characteristic (*e.g.*, race, religion, national origin, age, sex or gender, disability status, etc.) who are legally protected from Discrimination and Harassment on the basis of that characteristic.

“Provost” means the College’s chief academic officer or highest academic administrator, following the Chancellor.

“Quid Pro Quo” (lit. “something for something”) means a form of Sex-Based Harassment that involves a College Employee conditioning a College aid, benefit, or service (*e.g.*, grades or other academic outcomes, financial assistance, employment opportunities, decisions in College proceedings) on acquiescence to or tolerance of unwelcome sexual activity.

“Reasonable Person” means a hypothetical adult person with average sensibilities and an ordinary degree of intelligence, common sense, emotional maturity, prudence, care, and foresight.

“Reckless” or “Recklessly” means done in a way that a Reasonable Person would find unjustifiably impulsive, exceedingly careless, or totally unreasonable under the circumstances.

“Relevant Evidence” means evidence that may aid a Decision-maker in determining whether the alleged Sex discrimination, Sex-Based Harassment, Retaliation, or other prohibited conduct occurred, or in determining the credibility of the Parties or witnesses.

“Report,” in the context of Title IX, involves communicating information about Discrimination, Harassment, or Retaliation. Any person can make a Report of Sex Discrimination, Sex-Based Harassment, or Retaliation, whether observed or where it may be occurring to them.

“Resignation” means an Employee’s voluntary cessation of employment with the College for any reason, including retirement.

“Resolution Process” means, in the context of Title IX, the Administrative Resolution Process and, in some cases, the Informal Resolution Process.

“Respondent” means the individual who is alleged in a Complaint to have engaged in prohibited Discrimination or Harassment in violation of this AP.

“Responsive Action” means any Educational Measure or Disciplinary Sanction imposed on an Employee or Student by the College as a result of the Employee or Student accepting responsibility or being found responsible for a Code of Conduct violation.

“Restorative Justice” means any method of addressing and correcting Code of Conduct violations that provides an alternative to traditional punishments by focusing on accepting personal responsibility, making amends to individuals or

institutions who have been harmed, and developing a stronger sense of one's identity and role as a member of the College Community.

“Retaliation” means a form of unlawful discrimination in which materially adverse action is taken to punish an individual for engaging in Protected Activity or for the purpose of interfering with the individual's exercise of any right or privilege pursuant to law or College policy. Such adverse action may include, but is not limited to threats, acts of intimidation or coercion, unfavorable employment or academic decisions, or other forms of Discrimination and Harassment.

“Section 504” means Section 504 of the Rehabilitation Act of 1973.

“Sex,” in the context of Title IX, means sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

“Sexual Assault” means physical sexual acts perpetrated against an individual, regardless of any current or prior relationship, either through physical force or coercion, including threats against the individual or others, against the individual's will, without the individual's consent, or where the individual is incapable of giving consent, including, but not limited to, rape (forcible or statutory), sexual violence, sexual battery, sexual abuse, sexual exploitation, and sexual coercion.

“Sexual Harassment” in the context of Title VII employment law means unwelcome conduct of a sexual nature, of any kind or duration, that a Reasonable Person would find objectively offensive, including, but not limited to, unwelcome sexual advances or requests to engage in sexual activity of any kind, unreasonably persistent requests to socialize when the recipient of the requests has said no or otherwise declined the requests; or comments (including jokes and innuendo), conduct (including gestures), or physical contact (including unwanted touching) of a sexual nature. Title IX Sex-Based Harassment is a specific form of Sexual Harassment (see definition below).

“Stalking” means repeatedly following, making contact with, observing, or engaging in other conduct, or directing or requesting that others engage in such conduct, against another individual without legal justification in a manner or under circumstances that would cause a Reasonable Person to feel threatened, unsafe, or intimidated or to fear for the safety of others.

“Student” means any person who applies for admission to or is currently registered for or enrolled in any course(s) at the College on either a full-time, part-time, or clock-hour basis, as well as any person currently registered for or participating in continuing education, workforce development, adult basic education, or developmental education classes through the College.

“Student Code of Conduct” means the College’s published set of non-academic expectations and requirements for Students’ behavior that includes the College’s procedures, practices, and remedies for addressing Student non-academic misconduct.

“Student Employee,” for purposes of Section 14.6 of this AP, means a Student whose primary relationship with the College is as a Student and is also a part-time student worker, and includes work-study. Student Employee does not include Employees where the primary relationship with the College is as an Employee and the Employee also enrolls in classes.

“Subordinate” means any Employee whose hiring or consideration for employment; duties, responsibilities, or work assignments; or terms and conditions of employment with the College are determined, supervised, directed, controlled, evaluated, or overseen directly by a Supervisor.

“Substantial Disruption” means one or more unauthorized acts or conditions that materially and significantly interfere with, interrupt, or impede the instructional or educational activities of the College, other College Sponsored Activities, College Authorized Activities, Education Programs and Activities, or Ordinary College Operations.

“Supervisor” means an Employee who directly hires, supervises, oversees, gives direction or work assignments to, or evaluates the performance of one or more Subordinate Employees, or who has administrative authority over one or more Subordinates or the Subordinates’ specific terms and conditions of employment with the College.

“Supportive Measures” means non-disciplinary, non-punitive, individualized services of any duration offered free of charge to members of the College Community affected by or accused of Discrimination or Harassment as reasonably necessary and appropriate to restore or preserve access to the College’s Education Programs and Activities, preserve the integrity of the College’s investigation, and/or protect the safety of the parties involved, and may include College-issued one-way or mutual no-contact orders. Supportive Measures may be requested by

both Complainants and Respondents, and the College may implement Supportive Measures at its own discretion. Examples of Supportive Measures include, but are not limited to, the following:

- Referral to counseling, medical, and/or other wellness services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Student financial aid counseling
- Education to the College Community or community subgroup(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Implementing contact restrictions (no contact orders) between the Parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

“Title IX” means the federal civil rights law prohibiting discrimination on the basis of sex in federally funded education programs and activities (see 20 U.S.C. § 1681, *et seq.*) and 34 C.F.R. Part 106.

“Title IX Advisor” means any eligible person chosen by a party, or appointed by the College, who may accompany the party to all meetings related to the Resolution Process and advise the party on that process who has agreed to act in that role. Title IX Advisors may be attorneys, provided at the Complainant or Respondent’s own expense.

“Title IX Complaint” an oral or written request to the College that can objectively be understood as a request for the College to investigate and make a determination about the alleged violation(s) of Sections 13 or 14 this AP.

“Title IX Sex-Based Harassment” is a form of sex discrimination and means conduct meeting the College’s definition of Sex-Based Harassment on the basis of sex, including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity that occurs during a College Education Program or Activity and includes one or more of the following additional elements specifically prohibited by Title IX: a) Quid-Pro-Quo Harassment, b) Sexual Assault, c) Dating Violence, d) Domestic Violence, e) Stalking, or f) other unwelcome sex-based conduct that based upon the totality of the circumstances is

subjectively and objectively offensive, and is so severe or pervasive that it effectively limits or denies a person's ability to participate in or benefit from the College's Education Programs and Activities.

"Title VII" means Title VII of the Civil Rights Act of 1964, a federal law that protects Employees against Discrimination and Harassment based on their Protected Class.

"Volunteer" means any individual who is not an Employee or Student of the College and is authorized by the College to perform and voluntarily performs services for the College without promise, expectation, or receipt of compensation, future employment, or other tangible benefit, including academic credit. A Volunteer is not an Employee of the College for any purpose.