

## **TITLE IX POLICY**

### **TITLE IX POLICY STATEMENT**

Fortis College/Institute (“Institution”) is committed to maintaining a safe and healthy educational and work environment free from discrimination or harassment based on age, race, color, sex, gender, sexual orientation or identity, religion or creed, national or ethnic origin, or disability.

Institution, in accordance with Title IX of the Education Amendments of 1972 and 34 C.F.R. Part 106, (“Title IX”) does not discriminate on the basis of sex, including in admissions and employment, nor will it permit or tolerate sex discrimination or sexual harassment against students, employees, or other third parties.

All students and employees are expected to comply with this Title IX Policy and take appropriate measures to create an atmosphere free of harassment and discrimination. Any inquiries regarding Title IX or Institution’s Title IX Policy and Procedures can be directed to the Title IX Coordinator as provided below, the U.S. Assistant Secretary of Education for Civil Rights, or both.

Violations of this Title IX Policy will be addressed as set forth below.

### **TITLE IX POLICY AND PROCEDURES**

The Policy and Procedures set forth below apply to complaints alleging discrimination on the basis of sex carried out by students, employees, or third parties.

#### **I. WHEN THIS POLICY APPLIES**

##### **A. Notice**

In order to initiate the Title IX supportive measures (*see, Section IV.A. of this Title IX Policy*) and complaint resolution process (*see, Section IV.B. of this Title IX Policy*) set forth in this Title IX Policy, Institution must receive a verbal or written report of an allegation of sexual discrimination or sexual harassment to the specific individuals as identified below. As set forth more fully in Section II below, the report must be reported to: (i) Institution’s Title IX Coordinator, or (ii) Institution’s Campus President, who is defined for the purpose of this Title IX Policy as the sole Institution official who has authority to institute corrective measures on behalf of Institution.

##### **B. Sexual Harassment Defined**

For purposes of this Title IX Policy, sexual harassment is defined broadly to include any of three types of misconduct on the basis of sex:

1. Any instance of quid pro quo harassment by an employee, i.e., were the employee conditions the provision of an aid, benefit, or service of Institution on an individual’s participation in unwelcome sexual conduct;

2. Any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access to Institution's educational programs or activities; or
3. Any instance of sexual assault (as defined in the Clery Act) or dating violence, domestic violence, or stalking (as defined in the Violence Against Women Act).

### **C. Scope of this Title IX Policy**

This Policy applies to conduct or allegations of conduct that involve one or more Institution students, employees, or third parties. To be covered by this Policy, the conduct or alleged conduct must have occurred either on campus or in an Institution-controlled program or activity, whether the program or activity is on-campus or off-campus. This Policy also applies to conduct in any building owned or controlled by Institution or by a student organization that is officially recognized by Institution, as well as to online and electronic conduct. However, this Title IX Policy applies only to conduct occurring against a person who is in the United States.

For allegations that fall outside of the scope of this Policy, Institution may address allegations of student or employee misconduct as potential violations of Institution's Catalog or other policies.

## **II. HOW TO REPORT SEXUAL DISCRIMINATION OR SEXUAL HARASSMENT**

Institution is committed to providing clear, accessible channels for reporting to the Title IX Coordinator, Suzanne Peters.

Any person may report a claim of sexual discrimination or sexual harassment (student, employee, or third parties - which will initiate Institution's response - whether or not the person reporting is the person alleged to be the victim.

Nothing in the Title IX Policy prohibits a student, employee, or third parties from filing a criminal and Title IX complaint simultaneously or from reporting a crime directly to law enforcement.

There is no need to schedule an in-person appointment to make a report. The report can be verbal or written. Any person may report sex discrimination or sexual harassment at any time, including during non-business hours, by using the telephone number, regular mail or e-mail address of the Title IX Coordinator or the Campus President, or by meeting with or sending a written complaint to the Title IX Coordinator or the Campus President, at the office addresses below.

### Title IX Coordinator

Attention: Suzanne Peters  
5026D Campbell Blvd  
Baltimore, MD 21236  
Telephone: 330-805-2819  
Email Address: [speters@edaff.com](mailto:speters@edaff.com)

### Campus President

Please refer to Schedule A on page 15 of this document.

### Confidentiality

A complainant who desires to report sexual harassment without disclosing the complainant's identity may do so, but the Institution may be unable to provide supportive measures in response to that report without knowing the complainant's identity. Requests for confidentiality will be evaluated by the Title IX Coordinator.

### **III. DEFINITIONS**

The following definitions apply under this Title IX Policy:

1. A "complainant" is an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
2. A "respondent" is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
3. A "report of sexual harassment" is a complaint reported to the Title IX Coordinator, or to the Campus President, who will then give notice as required to the Title IX Coordinator. A report may be oral or informal. The complainant may file a formal complaint (see the definition of a "formal complaint" below) at the same time as making a report or may later proceed to file a formal complaint.
4. A "formal complaint" is a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the Institution investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the educational program or activity of Institution. The filing of a formal complaint triggers Institution's complaint formal complaint.
5. "Consent" means a willingness to participate in a mutually agreed upon sexual activity indicated by words or actions that are informed, freely and actively given, and mutually understood. A mere assent does not constitute consent if it is given by a person who is unable to make a reasonable judgment concerning the nature or harmfulness of the activity because of his or her incapacitating intoxication, unconsciousness, youth, mental deficiency, or incapacity, or if the assent is the product of threat or coercion.

### **IV. WHAT OCCURS WHEN A REPORT OF SEXUAL HARASSMENT IS MADE. CONTACT WITH THE COMPLAINANT, AND SUPPORTIVE MEASURES**

Upon receiving a report of sexual harassment, the Title IX Coordinator will promptly contact the complainant confidentially to discuss the availability of supportive measures (as explained more fully below), consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

Supportive measures are individualized services offered as appropriate, as reasonably available, without fee or charge, which are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment. Supportive measures, among other things, may include:

1. Academic support services and accommodations, including the ability to reschedule exams and assignments, transfer course sections, or withdraw from courses or programs without penalty;
2. Assistance in connecting with sources of counseling, advocacy, and support;
3. Assistance in connecting to community-based medical services;
4. Assistance with obtaining personal protective order mutual restrictions on communication or contact between the parties; or
6. A combination of any of these measures.

Supportive measures, as appropriate, will be offered by Institution to the complainant and the respondent. The Title IX Coordinator will coordinate the supportive measures.

In addition, if Institution determines that a Title IX violation may have occurred, Institution will take steps proactively designed to promptly and effectively end the offending behavior or the threat of the offending behavior, prevent its recurrence, and address its effects regardless of whether the alleged actions are subject to a criminal investigation.

Notwithstanding the above, Institution may:

- (i) Remove a respondent from an education program or activity on an emergency basis, provided that Institution undertakes a safety and risk analysis and determines that an immediate threat to the physical health or safety of a student or other individual justifies removal. In such a case, the respondent will be provided with notice and an opportunity to promptly challenge the decision, and
- (ii) Place a non-student employee on administrative leave during the pendency of the complaint resolution process.

### **A. Formal Complaint**

A Complainant may, but is not required to, file a formal complaint. A formal complaint initiates Institution's complaint resolution process, including an investigation, as set forth in Section V of this Title IX Policy. If the complainant does not wish to file a formal complaint, and thus trigger an investigation by the Institution and the Complaint Resolution Process, the complainant's wishes will generally be respected, except that the Title IX Coordinator may sign a formal complaint to initiate an investigation over the wishes of the complainant if the Title IX Coordinator determines that a formal complaint is not clearly unreasonable in light of the known circumstances.

If a formal complaint is filed, either by the complainant or the Title IX Coordinator, the Institution will begin the complaint resolution process set forth in Section V of this Title IX Policy.

Unless the formal complaint resolution process results in a determination that a respondent was responsible, the Institution will not impose disciplinary actions or take any other actions under this Policy that are not supportive measures.

Institution will not restrict the rights of any person, including the subject of a report filed with the Title IX Coordinator, which are protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment. This provision is not meant, and should not be construed, to mean that Institution is subject as a state actor to the provisions of the U.S. Constitution, or any of its amendments.

## **V. COMPLAINT RESOLUTION PROCESS**

### **A. Institutional Obligations**

Institution is committed to a consistent, transparent complaint resolution process for resolving formal complaints of sexual harassment. At all stages of the formal complaint resolution process, Institution and its representatives will:

1. Require objective evaluation of all relevant evidence, whether inculpatory or exculpatory;
2. Avoid credibility determinations based on a person's status as a complainant, respondent, or witness;
3. Require Title IX personnel (including Title IX Coordinators, investigators, decision-makers, or any person designated to facilitate an informal resolution process) to be free from conflicts of interest or bias for or against complainants or respondents;
4. Train all Title IX personnel on, the scope of Institution's education program or activity, confidentiality, how to conduct an investigation and grievance process including hearings, appeals, informal resolution processes, and how to serve impartially;
5. Not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding the privilege has waived the privilege;
6. Not access or use any party's medical, psychological, or similar treatment records unless the Institution first obtains the party's voluntary, written consent to do so;
7. Not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no "gag orders"); and
8. Keep confidential the identity of complainants, respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding.

### **B. Formal Complaints**

A formal complaint filed and signed by a complainant or signed by the Title IX Coordinator initiates Institution's formal complaint resolution process. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an education program or activity of the Institution. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed above for the Title IX Coordinator.

A formal complaint filed by a complainant must include the complainant's physical or digital signature or otherwise indicate that the complainant is the person filing the formal complaint.

Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or a party during a complaint resolution process and must comply with requirements for Title IX personnel to be free from conflicts and bias.

Upon receipt of a formal complaint, the Title IX Coordinator will promptly provide written notifications to all known parties. This notification will include the following information:

1. Notice of the allegations constituting potential sexual harassment, including all relevant details known at the time. These details will include, at a minimum, the identities of the parties involved in the incident(s), if known, the alleged conduct that could constitute sexual harassment, and the date and location of the alleged incident(s), if known. If, in the course of an investigation, the Institution decides to investigate allegations that are not included in the original notice, the Institution will provide notice of the additional allegations to the parties whose identities are known.
2. A statement that the respondent is presumed not responsible for the alleged conduct unless a determination regarding responsibility is made at the conclusion of the complaint resolution process.
3. A description of Institution's complaint resolution process, including the rights and responsibilities of the parties during the investigation, hearing, and appeal process, and the availability of any informal resolution process (as set forth more fully in this Title IX Policy).
4. A statement that they may have an advisor of their choice, who may be, but is not required to be, an attorney.

Institution may, at its discretion, consolidate multiple formal complaints where the allegations arise out of the same facts or circumstances.

If the allegations in a formal complaint are not within the scope of this Policy because they do not meet the Title IX definition of sexual harassment, or because the alleged activities did not occur in Institution's education program or activity against a person in the United States, then Institution must dismiss the formal complaint for purposes of Title IX. In such case, Institution will promptly send written notice of the decision to dismiss the complaint and the reasons for such decision to both parties. Even if the formal complaint is dismissed, however, Institution still may address the allegations as potential violations of the Institution's Catalog or other policies.

### **C. Investigation**

The Title IX Coordinator will designate one or more individuals to investigate the formal complaint (i.e., the Investigator). The Investigator will begin an investigation as soon as practicable and generally not later than 10 calendar days after the written notice of the formal complaint was delivered to all parties. The Investigator, however, will ensure that the respondent receives sufficient time to prepare prior to any initial interview.

#### *1. Advisors*

During the investigation process, each party will have the same opportunity to select an advisor of the party's choice who may be, but need not be, an attorney. The adviser may assist with all written submissions made by a complainant or a respondent, may assist with preparing

questions or other information for the complainant or the respondent to be used at the hearing and may facilitate scheduling and other processes. During any meeting or proceeding, the adviser may be present to observe and provide support and counsel to the participant. The adviser may not, at this stage, present evidence on a party's behalf, present arguments, examine witnesses, testify, or disrupt or otherwise obstruct meetings or proceedings.

The Investigator will review the statements and evidence presented and may, depending on the circumstances, interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather information relevant to the complaint. Although the burden of the investigation remains on the Institution, the Investigator will provide equal opportunity for the parties to present facts and expert witnesses, and other inculpatory and exculpatory evidence. The Investigator will send written notice of any investigative interviews, meetings, or hearings to the parties and their advisors, allowing each party adequate time to prepare in advance.

Institution will complete the investigation as quickly as possible, generally within 60 calendar days. The investigative process may be delayed or extended at the Investigator's discretion for good cause, such as the absence of parties or witnesses, concurrent law enforcement activity, or the accommodation of disabilities.

The complainant, respondent, witnesses, and others sharing information with the Investigator are expected to provide all relevant and truthful information and to do so at their earliest opportunity to facilitate prompt resolution. Institution's students and employees remain subject to the Institution's Catalog or other policies during investigations and may be subject to discipline for making false statements or knowingly submitting false information during the investigation.

## *2. Coordination with Law Enforcement*

If Institution is made aware that there is a concurrent criminal investigation, the Investigator will inform any law enforcement agency that is conducting its own investigation that an Institution investigation is also in progress. The Investigator will ascertain the status of the criminal investigation and determine the extent to which any evidence collected by law enforcement may be available to the Institution in its investigation.

At the request of law enforcement, Institution may agree to temporarily defer part or all of its own investigation (or subsequent hearing) until after the initial evidence-gathering phase of the law enforcement investigation is complete. The Investigator will communicate with the parties, consistent with the law enforcement request and Institution's obligations, regarding procedural options, anticipated timing, and the implementation of any necessary supportive measures.

## *3. Preliminary Report*

When the investigation is complete, the Title IX Investigator will provide the parties with a preliminary report, which will include, as applicable, the complainant's statement, the respondent's statement, each witness statement, and either a copy or written summary of any

other information the Investigator deems relevant. The preliminary report will be provided in an electronic format that restricts the parties from downloading or copying the evidence. Each party will have 10 calendar days to review the preliminary report and to provide written feedback. Each party's written feedback, if any, will be attached to the final investigative report.

#### *4. Final Investigative Report*

After consideration of the parties' final responses to the preliminary report, or after 10 calendar days have elapsed without comment, the Investigator will prepare and send to the parties and to their advisors a final investigative report that fairly summarizes relevant evidence and that includes the parties' written feedback, if any. The report will be in electronic format or hard copy. The parties will have at least 10 calendar days after receipt of the final investigative report to prepare for the scheduled live hearing.

### **D. Informal Resolution**

At any time after a formal complaint has been filed, and before a final determination is made by Institution, if the Title IX Coordinator believes that the complaint may be amenable to informal resolution, the Title IX Coordinator will give notice to the parties of their ability to choose an informal resolution option. However, an informal resolution process may not be used to resolve allegations that an employee sexually harassed a student. Further, an informal resolution process may not be offered unless a formal complaint has been filed.

The notice of the informal resolution option will include a statement of the allegations, a description of the informal resolution process, and a statement that at any time prior to agreeing to an informal resolution any party has the right to withdraw from the informal resolution process and resume the formal resolution process with respect to the formal complaint.

Each party has five calendar days to indicate in writing to the Title IX Coordinator if the party wishes to pursue the informal resolution option. If both parties give written, voluntary, and informed consent to the informal resolution option within five calendar days, Institution will begin the informal resolution process.

Participation in the informal resolution process is completely voluntary. Institution does not require any party to participate in the informal resolution process. Each party has an unconditional right to withdraw from the informal resolution process and resume the formal resolution process.

If the parties elect to pursue informal resolution, the Title IX Coordinator will designate a facilitator to administer the informal resolution process and will provide the facilitator with the final investigative report. If an investigation was not completed when the parties chose the informal resolution option, the Title IX Coordinator will give to the facilitator any available investigation information.

The facilitator retains the discretion to meet with either or both of the parties individually prior to reaching a decision. The facilitator will issue an informal resolution decision simultaneously to all parties, including:

1. The information from the formal complaint;
2. any information gathered during a previous investigation;
3. any new information the facilitator gathered from the parties;
4. a preliminary analysis and finding of whether or not there was a violation of the Institution's policies and/or the Institution's Title IX Policy; and
5. if appropriate, sanction(s) with rationale(s) based on the severity of the case and any past related incidents.

The parties have five calendar days to respond to the informal resolution decision. If neither party disagrees with the decision within five calendar days, the decision is finalized and the matter is considered resolved and closed through this informal resolution process. The Title IX Coordinator will send the parties a letter to inform them the matter has been resolved and the case is closed with regard to the Institution resolution process.

If either party disagrees with the facilitator's decision, the party may inform the Title IX Coordinator within five calendar days of receipt. The matter will then proceed through the formal complaint process.

In the event of any of the following developments:

- If either party declines the initial offer of an informal resolution option;
- If five calendar days pass from the initial notice of the informal resolution option with no response from a party;
- If any party gives written notice of withdrawal from the informal resolution process; or
- If any party gives written notice of disagreement within five calendar days of the facilitator's decision, if any party requests a formal hearing, the Title IX Coordinator will notify the parties and their advisors of the need to convene a formal hearing.

If an investigation previously was suspended when the parties chose the informal resolution process, the Investigator will complete the investigation and the parties will have five calendar days for preparation, from the time of receipt of the final investigative report to the time of the scheduled formal hearing. If the investigation was previously completed and the parties previously received the final investigative report, then from the time of the current formal hearing notice, the parties will have at least 10 calendar days for preparation prior to the time of the scheduled formal hearing.

## **E. Formal Hearing**

When a complaint is not resolved informally, the Title IX Coordinator will notify the parties and help to make any needed accommodations for a live, in-person, formal hearing. At any time prior to a final determination at the end of the formal hearing, the complainant and respondent can choose to accept an informal resolution decision previously offered. Each party must give written, voluntary agreement to the previously offered informal resolution decision, after which the decision is finalized, and the hearing is terminated.

The Title IX Coordinator will choose one or more individuals to conduct the formal hearing, who shall be designated the Decision-maker(s). Decision-maker(s) must be free from bias or conflict of interest and may not include the Title IX Coordinator or any person who served as the Investigator.

Hearings will be conducted no earlier than calendar 10 days after the Final Investigative Report is provided to the parties. The hearing date is based on the availability of the parties, witnesses, and decision-makers. The parties, however, may request a temporary delay for good cause for circumstances including the unavailability of a party's advisor, concurrent law enforcement investigation, the need for language assistance or accommodations for a disability, or a scheduled semester break. Institution reserves the right, at its sole discretion, to deny such requests if they are made merely to delay or impede the prompt resolution of such matters.

Live hearings may be conducted with all parties physically present in the same location or, at the Institution's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. At the request of either party, the Institution will provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other. In advance of the live hearing, the Decision-maker(s) will receive training on any technology to be used at the hearing.

*1. Advisors*

Hearings are closed to the public. Parties may be accompanied at the hearing by one advisor who may be, but need not be, an attorney. If a party does not have an advisor present at the hearing, then Institution will provide, without fee or charge to that party, an advisor of Institution's choice (who may be, but is not required to be, an attorney) to conduct cross-examination on behalf of that party.

*2. Cross-examination*

At the hearing, Institution will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. This cross-examination at the live hearing will be conducted directly, orally, and in real-time by the party's advisor of choice and never by a party personally.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the Decision-maker(s) will first determine whether the question is relevant and explain to the party's advisor asking cross-examination questions any decision to exclude a question as not relevant. The Decision-maker(s) will exclude as irrelevant any evidence regarding the complainant's prior sexual behavior unless this evidence is offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent.

If a party or witness does not submit to cross-examination at the live hearing, the Decision-maker(s) will not rely on any statement of that party or witness in reaching a determination regarding responsibility. In such case, however, the Decision-maker(s) will not draw an inference about the determination regarding responsibility based solely on a party's or

witness's absence from the live hearing or refusal to answer cross-examination or other questions.

### 3. *Standard of Evidence*

The standard of evidence to determine responsibility in hearings under this Policy is the preponderance of the evidence standard, which means more likely than not. If this standard is not met, the respondent is presumed not responsible for the alleged conduct. Under the preponderance of the evidence standard, it is possible for an investigation, hearing and/or appeal to reach an inconclusive determination.

### 4. *Record of Hearing*

Institution will create an audio or audiovisual recording, or transcript, of any live hearing and will retain this record for seven years after the hearing. No camera, TV, or other equipment, including cellphones, will be permitted in the hearing room except as arranged by Institution.

## **F. Written Determinations of Responsibility**

Following the hearing, the Decision-maker(s) will consider all of the evidence and make a determination whether the respondent is responsible for the alleged conduct. The Decision-maker(s) will issue a written determination regarding responsibility to the parties simultaneously. The written determination will include:

1. Identification of the allegations potentially constituting sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of Institution's policies and/or Title IX Policy to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions/remedies to be imposed, and whether remedies designed to restore or preserve equal access to Institution's education program or activity will be provided by Institution to the complainant; and
6. Institution's procedures and permissible bases for the complainant and respondent to appeal.

The Decision-maker(s) will strive to issue the written determination regarding responsibility within 14 calendar days after the hearing. Either party may appeal the determination by filing a written appeal, as described below, within 10 calendar days after receipt of the determination regarding responsibility. If no appeal is filed, the determination regarding responsibility becomes final 10 calendar days from the date of delivery to the parties.

## **G. Disciplinary Sanctions**

If the respondent is found to be responsible for sexual harassment, the Institution may impose disciplinary sanctions. Disciplinary sanctions depend upon the nature and gravity of the misconduct, any record of prior discipline for similar violations, or both.

The list of potential disciplinary sanctions includes one or more of the following:

*For Students:*

- Written warning;
- No-contact orders;
- Removal from specific courses or activities;
- Disciplinary probation;
- Suspension;
- Expulsion;
- Transcript notation; or
- Other sanctions as appropriate.

*For Employees:*

- Written warning;
- Performance improvement plan;
- Required training or education;
- Loss of pay increase;
- Suspension with or without pay;
- Termination; or
- Other sanctions as appropriate.

## **H. Remedies**

If the grievance process results in a determination that the respondent committed sexual harassment against the complainant in violation of the Title IX Policy, the complainant must be given remedies. Any remedy must be designed to restore or preserve the complainant's equal access to Institution's education program or activity.

*For employees and students:*

- Counseling;
- Academic accommodations;
- Academic support;
- Employment accommodations; or
- Other individualized services provided as a supportive measure.

Remedies will be decided on a case-by-case basis.

The Title IX Coordinator is responsible for ensuring the effective implementation of remedies provided to the complainant-

## **I. Dismissals**

Institution may dismiss the formal complaint or any allegations in the formal complaint at any time during the investigation or hearing:

1. The complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any specific allegations in the formal complaint;
2. The respondent is no longer enrolled or employed by Institution; or
3. The specific circumstances prevent Institution from gathering evidence sufficient to reach a determination as to the formal complaint or allegations in the formal complaint.

Institution will promptly send written notice of a dismissal and reason(s) simultaneously to the parties.

## **J. Appeals**

Either party may appeal from a determination regarding responsibility, or from Institution's dismissal of a formal complaint or any allegations, on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- Newly discovered evidence that was not reasonably available prior to the determination of responsibility that could affect the outcome of the matter; or
- One or more of Institution's Title IX personnel had a conflict of interest or bias that affected the outcome of the matter.

A notice of appeal must be in writing and must be filed with the Title IX Coordinator within 10 calendar days after the delivery of the decision to be appealed. The notice of appeal must include the name of the complainant, the name of the respondent, the decision or action being appealed, and an explanation of the grounds for appeal.

Upon receiving a notice of appeal, Institution will provide formal notice to the parties of the appeal. Each party will be given a minimum of ten calendar days to provide a written statement supporting or challenging the appealed action.

The Title IX Coordinator will designate an Appeal Officer to hear and make a decision with regard to the appeal. The Appeal Officer must be free from bias or conflict of interest and must not be the Title IX Coordinator, the Investigator, or the Decision-maker(s).

As soon as is reasonably practicable, and generally, within 14 calendar days after receipt of the parties' written statements, the Appeal Officer will issue a written decision regarding the appeal simultaneously to both parties. The decision will describe the result of the appeal and the rationale for the decision. The decision of the Appeal Officer is final.

## **VI. RETALIATION PROHIBITED**

Retaliation against any person who files a complaint, participates in an investigation, or opposes a discriminatory employment or educational practice or policy is prohibited. This Policy prohibits any form of retaliation, including intimidation, threats, harassment, and other adverse action taken or threatened against any person reporting or filing a complaint or any person cooperating in the investigation under this Policy. Action is deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this Policy. Without limitation of the foregoing, it is important to note that:

- Charging an individual with a violation of an Institution policy that does not involve sexual harassment, but that arises out of the same facts or circumstances as a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.
- Charging an individual with a violation of an Institution policy for making a materially false statement in bad faith in the course of a Title IX complaint resolution proceeding does not constitute retaliation, but a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.
- The exercise of rights protected under the First Amendment does not constitute retaliation.

A person who believes retaliation has occurred should notify the Title IX Coordinator. The Title IX Coordinator will take prompt corrective action if the complainant or the alleged victim (if not the complainant) experiences retaliation or is subjected to further violation of this Policy.

Retaliation may result in disciplinary or other action independent of the sanctions or remedies imposed in response to the underlying allegations of sexual harassment.

## **VII. RECORDS RETENTION**

Institution shall retain appropriate records for a period of seven (7) years, including records relating to any reports of sexual harassment. The records will include actions taken by Institution, including any supportive measures taken in response to the report. If supportive measures were not provided, Institution will document the reasons for this response.

The Institution also will retain records relating to any formal complaints. These records will include the investigation, the informal resolution process (if applicable), the hearing, the written determination, and (if applicable) the appeal and result.

**Schedule A**

<p><b>Fortis College - Baton Rouge</b>  14111 Airline Highway, Suite 101  Baton Rouge, LA 70817  Campus President: Kendra Williams Phone:  225.248.1015  <a href="mailto:Kendra.Williams@FortisInstitute.edu">Kendra.Williams@FortisInstitute.edu</a></p>	<p><b>Fortis College - Centerville</b>  555 E. Alex Bell Road  Centerville, OH 45459  Campus President: Greg Bond  Phone: 937.433.341  <a href="mailto:Gregory.Bond@FortisCollege.edu">Gregory.Bond@FortisCollege.edu</a></p>
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