

CIVIL RIGHTS COMPLAINT PROCEDURE

<i>Policy Reference(s):</i>	II.01; II.02
<i>Responsible Department(s):</i>	Office of Institutional Diversity & Inclusion; General Counsel
<i>Approval Date:</i>	9/29/2014
<i>Revision Date(s):</i>	8/15/2016; 11/15/2017

CCAC NON-DISCRIMINATION POLICY:

As set forth in Board Policy II.01 and II.02, the College does not discriminate and prohibits discrimination against any individual based upon race, color, religion, national origin, ancestry or place of birth, sex, gender identity or expression, perceived gender identity, sexual orientation, disability, use of a service animal due to disability, marital status, familial status, genetic information, veteran status, age or other classification protected by applicable law in matters of admissions, employment, services or in the educational programs or activities that it operates. Harassment that is based on any of these characteristics, whether in verbal, physical or visual form, constitutes a form of prohibited discrimination. This includes harassing conduct which affects tangible job benefits, unreasonably interferes with an individual's academic or work performance or which creates what a reasonable person would perceive to be an intimidating, hostile or offensive work or educational environment.

It is further the Policy of the College to comply with Title IX of the Education Amendments of 1972, which prohibits discrimination based on gender or sex in the College's educational programs and activities, as well as the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended by the Campus Sexual Violence Elimination Act (SaVE Act). Conduct prohibited under Title IX, the Clery Act and the SaVE Act includes sexual harassment, sexual misconduct and acts of sexual violence, including sexual assault, domestic violence, dating violence and stalking.

SCOPE OF PROCEDURE:

The Community College of Allegheny County has adopted these internal grievance procedures in order to provide for the prompt, fair and impartial investigation and resolution of complaints alleging discrimination, harassment and/or retaliation in violation of the College's non-discrimination and unlawful harassment policies and/or federal, state and local civil rights laws, including the following laws enforced by the U.S. Department of Education, Office for Civil Rights (OCR) and the Equal Employment Opportunity Commission (EEOC):

- **Title VI** of the Civil Rights Act of 1964 prohibits Discrimination on the basis of race, color and national origin.
- **Title IX** of the Education Amendments of 1972 prohibits Discrimination on the basis of sex/gender; including sexual misconduct, sexual harassment and/or sexual violence.
- **Section 504** the Rehabilitation Act of 1973 prohibits Discrimination on the basis of disability.
- **Age Discrimination Act** of 1975 prohibits Discrimination on the basis of age.
- **Title VII** of the Civil Rights Act of 1964, prohibits Discrimination as it relates to employment.
- **Title II** of the Americans with Disabilities Act of 1990 prohibits Disability Discrimination by public entities, whether or not they receive federal financial assistance).

- **Pennsylvania Human Relations Act** prohibits Discrimination in employment, education and public housing.

This Procedure is available and applicable to all members of the College community, including the following:

- **Students**
- **Employees**
- **Guests**
- **Independent Contractors/Third-Party Vendors**
- **Volunteers**

Prohibited conduct subject to this Procedure includes, but is not limited to, the following:

- **Discrimination** on the basis of actual or perceived membership in a protected class
- **Harassment** on the basis of actual or perceived membership in a protected class
- **Bullying** on the basis of actual or perceived membership in a protected class
- **Hazing** on the basis of actual or perceived membership in a protected class
- **Intimidation** on the basis of actual or perceived membership in a protected class
- **Sexual Misconduct Offenses:**
 1. Sexual Assault
 2. Sexual Harassment
 3. Domestic Violence
 4. Dating Violence
 5. Sexual Exploitation
- **Stalking** on the basis of actual or perceived membership in a protected class
- **Cyber-bullying, cyber-stalking and/or cyber-harassment** on the basis of actual or perceived membership in a protected class

Additional actions that are covered under this Procedure include, but are not limited to:

- **Denial** of reasonable accommodations for individuals with documented disabilities
- **Denial** of reasonable accommodations for pregnant students or employees
- **Not Honoring** the College's established attendance procedure for pregnant students and pregnancy-related conditions, as is more fully described in the next section below.
- **Romantic Relationships** in the workplace or within the educational environment that violate the requirements set forth in ***Board Policy II.02***.

This Procedure **does not** apply to academic complaints, with the following exceptions:

- Complaint alleges that an academic decision was determined as a result of discrimination and/or harassment
- Complaint alleges that an individual was denied participation in an academic program or activity due to discrimination and/or harassment

- Complaint alleges that discrimination and/or harassment impacted or altered an individual's ability to perform academically

ATTENDANCE PROCEDURE FOR PREGNANCY & PREGNANCY RELATED CONDITIONS:

In accordance with Title IX of the Education Amendments of 1972, absences due to pregnancy or related conditions, including recovery from childbirth, shall be excused for as long as the absences are determined to be medically necessary. Students will be provided with the opportunity to make up any work missed as a result of such absences, if possible. The College may also offer the student alternatives to making up missed work, such as, but not limited to, retaking a semester, taking part in online instruction or allowing the student additional time in a program to continue at the same pace and finish at a later date. For more information or requests for accommodations, students should inform their instructor(s) and/or contact the Civil Rights Compliance Officer/Title IX Coordinator, at 412.237.4535 or smisra@ccac.edu.

GEOGRAPHIC JURISDICTION:

This Procedure applies to prohibited forms of conduct that occur in connection with a College program or activity. This may include the following:

- Conduct occurring at or on property or facilities owned or controlled by the College, including campus locations and centers, satellite and other non-campus locations, the Office of College Services, and College-owned or controlled parking lots and grounds
- Conduct occurring on public property within or immediately adjacent to a campus location
- Conduct occurring at activities that are sanctioned, organized or coordinated by the College, on or off campus, including but not limited to:
 - Clinicals, internships and externships
 - Study abroad programs
 - Community activities
 - Off campus sites offering non-credit classes and/or programs
 - Athletic events, including travel thereto
 - Activities sponsored or organized by recognized student organizations
- Other conduct that takes place off campus but which has the potential to adversely impact a student(s) on campus or otherwise adversely affect or disrupt the College's learning or working environment.

DEFINITIONS:

- **Civil Rights Compliance Officer** — unless the context indicates otherwise, references to the Civil Rights Compliance Officer (CRCO) include the individual holding that position in the College and any other individual designated by the CRCO to act on his/her behalf.
- **Complainant(s)** — is a person who is subject to alleged protected class discrimination, harassment or related retaliation.

- **Respondent(s)** — is a person whose alleged conduct is the subject of a complaint.
- **Discrimination** — actions that deprive members of the College community of educational, extracurricular (including athletics) or employment access, benefits or opportunities on the basis of their actual or perceived membership in a protected class.
- **Harassment** — acts of systematic and/or continued unwanted actions of one party or a group, including verbal abuse, threats and demands.
- **Bullying** — repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally.
- **Intimidation** — implied threats or acts that cause an unreasonable fear of harm in another.
- **Stalking** — repeatedly following or committing other acts upon a person with intent to place the person in reasonable fear of bodily injury, or otherwise cause the person substantial emotional distress.
- **Sexual Assault** — a person engaging in sexual intercourse or deviate sexual intercourse with another person without their consent; includes rape, fondling, grabbing someone sexually, sexual harassment, stalking, domestic and dating violence and many other behaviors.
- **Sexual Harassment** — a form of prohibited unlawful harassment that consists of unwelcome sexual advances, requests for sexual favors or other verbal, written, graphic or physical conduct of a sexual nature, when:
 - Submission to such conduct is either implicitly or explicitly made a term or condition of an individual’s employment or education;
 - Submission to or rejection of such conduct is used as the basis for employment or educational decisions affecting that individual; or
 - Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or educational experience or creating an intimidating, hostile or offensive work or educational environment.

Sexual harassment may take many forms, including deliberate or careless use of offensive, vulgar or demeaning terms connected with a person’s gender or sexual orientation; sexually suggestive comments, compliments, jokes, innuendos, questions or flirtations; offensive or sexually suggestive objects, graffiti, pictures, or graphic displays; sexual gestures or unwanted touching; pressuring or asking an individual for dates or sexual favors; or any other conduct that has the effect of unreasonably interfering with an individual’s ability to work or learn.

Three (3) types of Sexual Harassment:

1. **Hostile Environment Sexual Harassment** includes any situation in which there is harassing conduct that is sufficiently severe, pervasive and objectively offensive that it alters the terms or conditions of education or employment, from both a subjective (the alleged victim’s) and an objective (reasonable person’s) viewpoint.
2. **Quid Pro Quo Sexual Harassment** exists when there are: unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and submission to or rejection of such conduct results in adverse educational or employment action.
3. **Retaliatory Harassment** is any adverse employment or educational action taken against

a person because of the person's participation in a complaint or investigation of discrimination or sexual misconduct.

- **Domestic Violence** — one or more of the following acts occurring between family or household members, sexual or intimate partners or people who have a child in common: purposefully or recklessly causing or attempting to cause bodily injury, serious bodily injury, rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault, incest or false imprisonment.

As used herein, the phrase "family or household members" refers to current or former spouses, persons who live or have lived as spouses, parents and children, other persons related by blood or marriage, current or former intimate or sexual partners or persons who have a child in common.

- **Dating Violence** — abusive behavior or a pattern of abusive behaviors used to exert power and control over a dating partner. Whether such a relationship exists will be gauged by the length, type and frequency of interaction between the partners.
- **Sexual Exploitation** — behavior that takes non-consensual or abusive sexual advantage of another for the abuser's advantage or benefit, or to benefit or advantage anyone other than the one being exploited, examples are, but not limited to:
 - prostituting another student;
 - non-consensual video or audio-recording of sexual activity;
 - going beyond the boundaries of consent (such as letting your friends hide to watch you having consensual sex);
 - engaging in peeping behaviors;
 - knowingly transmitting an STI or HIV to another student.
- **Consent** — knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity. Consent to one form of sexual activity cannot imply consent to other forms of sexual activity. Previous relationships or consent cannot imply consent to future sexual acts. Consent cannot be procured by use of physical force, compelling threats, intimidating behavior or coercion. If you have sexual activity with someone you know to be—or should know to be—mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), you are in violation of this Procedure. Use of alcohol or other drugs will never function to excuse behavior that violates this Procedure.
- **Reasonable Accommodation for Students** — approved modifications of programs, appropriate academic adjustments or auxiliary aids that enable them to participate in and benefit from all educational programs and activities, unless to do so would cause undue hardship.
- **Reasonable Accommodation for Employees** — any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to

participate in the application process or to perform essential job functions, unless to do so would cause undue hardship.

GUIDANCE ON REPORTING A COMPLAINT:

Prompt reporting of civil rights violations is encouraged, because facts often become more difficult to establish as time passes. The College will take prompt and appropriate action in response to all reports in order to end the prohibited conduct, prevent its recurrence and address its effects. The ability of the College to take disciplinary action against the Respondent is limited if the Respondent is no longer a member of the College community. If the Respondent is a staff member, faculty member or student and leaves the College with a pending complaint, the Respondent will not be permitted to return to the College until the complaint is resolved through this complaint procedure.

Due to the potential severe nature of discrimination and/or harassment issues, the Complainant does not have to address the issue directly with the Respondent and/or with the Respondent's supervisor (if applicable), as the initial means of resolution.

Civil rights complaints can be submitted initially in the form of a verbal statement or written complaint. If the complaint progresses to the Formal Phase (described below), then a written statement will be required. If the Complainant does not want to submit a written statement, the CRCO or his/her designee can prepare a statement of facts for approval by the Complainant. A **Civil Rights Violation Complaint Form** is available for written statements (Appendix A).

Students:

Any student (credit or non-credit) can report a civil rights violation (as described above) directly to the CRCO, who is designated as the Title IX and ADA/504 Coordinator for the College. Students can also report violations to the Civil Rights Investigator or to the Dean of Student Development at the student's home campus (contact information listed below), without fear of retaliation.

Employees/Volunteers:

Any employee (faculty, staff or administrator) or volunteer can report a civil rights violation (as described above) directly to the CRCO, the Civil Rights Investigator, the Vice President of Human Resources, the Director of Employee and Labor Relations (contact information listed below) and/or to the employee's direct supervisor without fear of retaliation.

Guests and Independent Contractors/Third-Party Vendors:

Any guest or independent contractor/third-party vendor can report a civil rights violation (as described above) to the CRCO and/or to the Office of Human Resources (contact information listed below) directly without fear of retaliation.

If a complaint is reported initially to an administrator, other than the CRCO, that administrator has an obligation to notify the CRCO within 48 hours. If the Complainant wants to lodge a complaint against one of the above mentioned Reporting Agents, then the Complainant should report to one of the alternative Reporting Agents or to the Special Assistant to the President for Diversity & Inclusion.

The College prohibits and will not engage in retaliation against any person who, in good faith, reports a violation, makes a complaint or provides information in connection with the investigation of a complaint made under this procedure.

Reporting Agents' Contact Information:

Civil Rights Compliance Officer/Title IX Coordinator

Allegheny Campus, Byers Hall 316
808 Ridge Avenue
Pittsburgh, PA 15212
412.237.4535

Civil Rights Investigator

Allegheny Campus, Byers Hall 321
808 Ridge Avenue
Pittsburgh, PA 15212
412.237.4542

Vice President of Human Resources

Office of College Services, Suite 110
800 Allegheny Avenue
Pittsburgh, PA 15233
412.237-3001

Director of Employee & Labor Relations

Office of College Services, Suite 109
800 Allegheny Avenue
Pittsburgh, PA 15233
412.237-3034

Dean of Student Development

Allegheny Campus, SSC 360
808 Ridge Avenue
Pittsburgh, PA 15212
412.237.2520

Dean of Student Development

Boyce Campus, S571
595 Beatty Road
Monroeville, PA 15146
724.325.6651

Dean of Student Development

North Campus, N3019
8701 Perry Highway
Pittsburgh, PA 15237
412.369.3654

Dean of Student Development

South Campus, B343
1750 Clairton Road
West Mifflin, PA 15122
412.469.6201

Special Assistant to the President for Diversity & Inclusion

Allegheny Campus, Byers Hall 318
808 Ridge Avenue
Pittsburgh, PA 15212
412.237.4436

Mandatory Employee Reporting Responsibility:

All College employees, including faculty, staff and administrators, are required to report any incidences of sexual misconduct or other potential civil rights violations, as described above, of which they become aware, either directly or through a third-party, to the CRCO. Reports should be made in a timely manner, generally within 24-48 hours absent other exigent circumstances. The College is required to conduct a prompt, thorough and impartial investigation of sexual misconduct and other civil rights violations regardless of whether or not a formal complaint is filed. Failure to report can result in disciplinary action, up to and including termination.

Complainant Request for Confidentiality or No Action:

If at any point the Complainant requests that his/her name or other identifiable information be held confidential with respect to the Respondent or decides not to pursue action by the College, the College will make all reasonable attempts to respond to the complaint consistent with the Complainant's request. However, the College's ability to investigate the complaint and respond to the conduct may be limited. Recognizing that the College has a legal obligation to review all reports, the College will weigh the Complainant's request against such factors as the seriousness of the alleged conduct, whether there have been other complaints of a similar nature against the same Respondent, the College's commitment to provide a reasonably safe and non-discriminatory environment and the rights of the Respondent to receive notice and relevant information before disciplinary action is taken. If the College determines that it is necessary to proceed with the complaint procedure or implement other appropriate remedies, the Complainant will be notified by the CRCO of the College's chosen course of action.

Information provided by College employees shall be shared with other College employees and law enforcement on a "need to know" basis.

Confidential Reporting Sources (community based):

The following community resources are available to assist individuals, on a confidential basis, who have been victims of sexual misconduct:

Pittsburgh Action Against Rape (PAAR)

81 S 19th Street
Pittsburgh, PA 15203
24-hour confidential hotline: 1-866-END-RAPE (1-866-363-7273)

Women's Center and Shelter of Greater Pittsburgh

24-hour confidential hotline: 412-687-8005

Reporting Options Outside of the College:

The College's Complaint Procedures are administrative in nature and are separate and distinct from the criminal and civil legal systems. The College encourages individuals to pursue whatever remedies are available to them, through internal or external complaint resolution processes. The following external agencies may also receive and investigate complaints of civil rights violations:

US Department of Education, Office for Civil Rights (OCR)

400 Maryland Avenue, SW

Washington, DC 20202-1100

Customer Service Hotline #: (800) 421-3481 | Facsimile: (202) 453-6012

TTY#: (800) 877-8339 | Email: OCR@ed.gov | Web: <http://www.ed.gov/ocr>

Equal Opportunity Employment Commission (EEOC)

Pittsburgh Office

William S. Moorhead Federal Building

1000 Liberty Avenue, Suite 1112

Pittsburgh, PA 15222

1-800-669-4000

Pennsylvania Human Relations Commission (PHRC)

Pittsburgh Office

301 Fifth Avenue

Suite 390, Piatt Place

Pittsburgh, PA 15222

(412) 565-5395

Reporting to the Police:

In cases involving potential criminal misconduct, including acts of sexual violence, the College encourages individuals to report the conduct to the law enforcement agency which has jurisdiction over the location where the incident occurred. If the conduct is reported to the College, the individual will be informed of their option to also report any potential criminal activity to the police. Members of the College Safety & Security Offices are available to assist the Complainant in contacting appropriate law enforcement authorities.

Federal Timely Warning Obligations:

Victims of sexual misconduct should be aware that College administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The College will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

COMPLAINT INTAKE & PROCESSING:

The procedures described below will apply to all civil rights complaints involving students, staff, administrators or faculty members (with the exception that unionized or other categorized employees will be subject to the terms of their respective Collective Bargaining Agreements to the extent those Agreements do not conflict with federal or state compliance obligations). Redress and requests for responsive actions for complaints brought against non-members of the community, such as guests, volunteers and independent contractors/third-party vendors, are also covered by these procedures.

Informal Phase:

- Following the receipt of a verbal or written complaint, the CRCO will contact the Complainant to acknowledge receipt of the complaint and schedule an initial investigatory interview with the Complainant.
- The CRCO, in conjunction with appropriate administrators (dependent upon the position/status of the Complainant and Respondent), will assess the complaint to determine whether resolution can be achieved through informal measures, such as conflict resolution, mediation and/or educational/training sessions.
- An initial determination will be made as to whether a complaint alleges a civil rights violation and/or whether informal measures might be appropriate to resolve the complaint. If the complaint does not appear to allege a civil rights violation or if informal resolution is voluntarily agreed to by all parties and would be appropriate given the circumstances, then the complaint will not proceed to the Formal Phase. To assist in making this determination, preliminary investigative interviews may be required with the Complainant, Respondent and identified witnesses.
- **Conflict Resolution & Mediation** are often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the Formal Phase to resolve conflicts. The CRCO, in conjunction with appropriate administrators, will be responsible for facilitating a dialogue and/or an educational session for the Complainant and Respondent, either separately or collectively, regarding these options. Failure to abide by the accord can result in appropriate responsive actions and progression to the formal phase. At any time during the informal phase, any party — Complainant, Respondent or facilitator — can stop the process and advance the complaint to the Formal Phase.

Formal Phase:

- If, after initial assessment of a complaint, the CRCO, in conjunction with other appropriate administrators, determines that the complaint alleges a possible civil rights violation, the complaint will move forward to the Formal Phase. The Formal Phase may also be initiated whenever a Complainant or Respondent elects to forego the Informal Phase or the utilization of Informal Phase procedures fails to resolve the complaint.
- In the event that a civil rights complaint is also the subject of a separate external criminal investigation, the College will continue to make good faith efforts to investigate the complaint

and take action to address the effects of any prohibited conduct on its campuses or in the work or educational environment.

- Upon opening an investigation, the College will provide the Respondent with written notice of the allegations constituting a potential violation. The notice will include sufficient detail to enable the Respondent to prepare a response to the allegations prior to any initial interview.
- Interim measures to prevent continued discrimination or harassment will be considered and may be implemented either prior to or during the investigation period as deemed appropriate. Examples of interim measures that may be offered to either the Complainant, the Respondent or both include, but are not limited to: restrictions on contact between the parties, counseling services, restrictions from certain areas of campus, escort services, increased security and/or monitoring of certain areas of campus, extensions of time or other modifications in academic and/or work schedules, leaves of absence, and/or temporary suspension. Failure to adhere to the parameters of any interim measure constitutes a violation of College policy and these procedures and may lead to additional disciplinary action.
- The College may suspend a student, employee or organization on an interim basis pending the completion of an investigation. Decisions of suspension, including conditions and duration, will depend on the severity of the alleged misconduct and/or if a possible pattern of behavior by the Respondent exists. Violation of an interim suspension issued under these procedures will be grounds for expulsion or termination. An interim suspension of a student or paid leave of absence for an employee may be imposed in any one or more of the following circumstances:
 - In instances where it is determined that the Respondent poses a potential threat to another individual.
 - To ensure the safety and well-being of members of the College community and/or the preservation of College property.
 - To ensure the Respondent's own physical or emotional safety and well-being.
 - If the Respondent poses a threat of disruption or interference with the normal operations of the College.
 - During an interim suspension/paid leave of absence the individual or organization may be denied access to campus, campus facilities and/or all other College activities or privileges for which the Respondent might otherwise be eligible, as the College determines appropriate.

When an interim suspension/paid leave of absence is imposed, the College will make reasonable, good faith efforts to complete the investigation within an expedited time frame.

- Investigations shall be conducted in a prompt, equitable and impartial manner, and provide an opportunity for both the Complainant and Respondent to provide information in support of their respective positions. The investigation will include interviews of witnesses, and review and evaluation of all relevant documents and evidence. Complainant and Respondent will be provided with reasonable advance written notice of any investigatory interview requested as part of an investigation. Good faith effort will be made to conclude the investigation within a reasonable time. If a party refuses to participate in the investigatory process, the investigator will make his or her findings based upon the information available to him/her.

- If the Respondent admits to engaging in conduct that constitutes a violation, the CRCO, in conjunction with appropriate administrators, will impose appropriate sanctions. Such a disposition will be final and there will be no subsequent proceedings, unless the sanctions include suspension or expulsion of a student or termination of an employee. In that case, the Respondent may request a hearing by the Civil Rights Hearing Board (CRHB) (see below for details on CRHB proceedings) or, if an employee, the Respondent may alternatively challenge the determination through procedures afforded under any Collective Bargaining Agreement or College policy applicable to the employee.
- If the allegations that are the subject of the complaint are disputed or denied by the Respondent, then the CRCO or his/her designee will complete the investigation, based upon an evaluation of available evidence, including both inculpatory and exculpatory evidence, and prepare a written report summarizing the evidence and the investigator's findings. Copies of the investigation report will be provided to both Complainant and Respondent.
- If the CRCO and appropriate administrators conclude that the investigation supports a finding of responsibility against an employee Respondent, then the employee will be notified of such finding and shall be entitled to all due process rights available to him/her under applicable Collective Bargaining Agreements and/or College policies prior to any final determination of responsibility and potential disciplinary action. Employee Respondents may also utilize the CHRB to resolve complaints against them in lieu of other College processes.
- If the CRCO concludes that the investigation supports a finding of responsibility against a student Respondent, then the student will be notified of such finding and may then elect to have the complaint against them adjudicated through either an administrative hearing with the Dean of Student Development at his or her home campus or through a hearing before the CRHB for a final determination of responsibility and appropriate sanctions.
- If the CRCO concludes that the investigation does not support a finding of responsibility against a Respondent, each of the parties will be notified of the results of the investigation, and the complaint will be considered closed with no further right of appeal by either party.

ROLE OF ADVISORS:

If a Complainant or Respondent desires, he/she may be accompanied by an advisor of his/her choice at any informal meeting, investigatory interview, administrative hearing or CRHB hearing conducted under these procedures. Typically, advisors are members of the College community; however, either party is free to utilize an outside party, including an attorney, as an advisor. Complainants and Respondents are required to notify the CRCO of the name and position of the advisor that will accompany them in advance of any scheduled proceeding. Accommodations, including scheduling or rescheduling of interviews or hearings, will not be made for advisers, including attorneys, if the requested accommodation would unduly delay the process. The parties are expected to ask and respond to questions on their own behalf during any investigatory interview or hearing, without representation by their advisor. A Complainant/Respondent and advisor may consult with each other, quietly or in writing during a proceeding, or outside the interview room or hearing room during a break, but the advisor may not speak for or on behalf of the Complainant/Respondent during any proceeding in either the Informal or Formal Phases, or represent or advocate on behalf of the Complainant or Respondent during any administrative hearing or at any CRHB proceeding.

CIVIL RIGHTS HEARING BOARD (CRHB):

- **Membership:**

Each CRHB will have a minimum of three (3) members, comprised of individuals selected from the following departments or offices:

- The campus Deans of Student Development
- The campus Deans and/or Associate Deans of Academic Affairs
- The College's Office of Human Resources
- The campus Safety & Security Departments
- The campus Offices of Student Supportive Services
- Full-time Faculty
- Alternate administrators, as may be identified and trained in accordance with these procedures.

STUDENTS CANNOT SERVE ON THE CRHB

One of the CRHB members will be appointed to serve as the chairperson of the CRHB by the CRCO. The chairperson will be responsible for submitting a report to the CRCO following the hearing, in the manner and form described below. The CRCO will serve as a non-voting member of the CRHB, and shall be responsible for coordination and annual training of the CRHB. Any individual that participated in the initial investigation of the complaint will not be permitted to serve on the CRHB in order to ensure impartiality.

- **Training of CRHB Members**

Members of the CRHB will be trained in all aspects of this complaint procedure, and can serve in any of the following roles, at the direction of the CRCO:

- to investigate complaints in conjunction with the CRCO
- to serve on hearing panels for civil rights complaints
- to serve on appeal panels for civil rights complaints

- **Notification of Charges:**

At least one (1) week prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the CRCO will send a letter to the parties with the following information:

- A description of the alleged violation(s), a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result;
- The time, date and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities. If any party does not appear at the scheduled hearing, the hearing will be held in their absence (for compelling reasons, the hearing may be rescheduled);
- Notice that the parties may have the assistance of an adviser of their choice at the hearing (as described above).

Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

At the hearing, the Complainant and/or Respondent may present any evidence that they feel is pertinent to their position in the complaint. If a party is requesting that witnesses be permitted to attend or present evidence, that party must submit a list of requested witnesses to the CRCO at least two (2) business days prior to the scheduled date of the CRHB hearing. Individuals not so identified will not be permitted to attend or participate in the hearing.

Hearings for possible violations that occur near or after the end of an academic term will be held immediately after the end of the term or during the summer, as needed.

- **Record of Proceeding:**

Proceedings before the CRHB will be recorded. It is not necessary that a certified court reporter be used in the proceedings. An audio recording or minutes of the proceedings will be sufficient. In the event a transcript of the proceedings is requested, the person so requiring will pay the cost of reproduction.

- **Respondent's Prior Conduct History:**

The CRCO and/or CRHB may consider information about previous behavior and/or complaints regarding the Respondent if:

1. The Respondent was previously found to be responsible for a similar violation;
2. The previous incident was substantially similar to the present allegation, even if the individual was not found responsible for a violation; or
3. The information indicates a pattern of behavior by the Respondent and substantial conformity with the present allegation.

A Respondent's prior conduct will be taken into consideration by the CRHB (when applicable) or when determining what sanction(s) to recommend or impose.

- **Determinations of Responsibility by the CRHB:**

The CRHB will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the violation(s) in question. The CRHB will base its determination on a **preponderance of the evidence** (i.e., whether it is more likely than not that the accused individual committed each alleged violation). If an individual Respondent or organization is found responsible by a majority of the CRHB, the CRHB will also recommend appropriate sanctions to the CRCO.

- **Determination of Sanctions:**

Sanctions or responsive actions will be determined by the CRHB. Factors considered when determining a sanction/responsive action may include:

- The nature, severity of and circumstances surrounding the violation;
- An individual's disciplinary history;

- Previous complaints or allegations involving similar conduct;
 - Any other information deemed relevant by the CRHB;
 - The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation;
 - The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation; and
 - The need to remedy the effects of the discrimination, harassment and/or retaliation on the victim and the community.
- **Possible Sanctions:**

For Student Respondents:

1. **Educational Sanctions:** An activity assigned to provide a student the opportunity to review conduct expectations, understand how behavior can contribute to a positive and beneficial College experience and learn of campus/community resources that support academic and non-academic success. Examples may include, but are not limited to: writing a research or reflective paper, attending seminars, taking online educational activities and/or meeting with members of various College offices.
2. **Warning:** A formal statement that the behavior was unacceptable and a warning that further infractions of any College Policy, Procedure or directive will result in more severe sanctions/responsive actions.
3. **Probation:** A written reprimand for violation of this Procedure, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any College Policy, Procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, no contact orders and/or other measures deemed appropriate.
4. **Suspension:** Termination of student status for a definite period of time not to exceed two (2) years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at College.
5. **Expulsion:** Permanent termination of student status, revocation of rights to be on campus for any reason or attend College-sponsored events.
6. **Withholding Diploma:** College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has a complaint pending or as a sanction if the student is found responsible for an alleged violation.
7. **Organizational Sanctions:** Deactivation, de-recognition, loss of all privileges (including College registration), for a specified period of time.
8. **Other Actions:** In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

For Employee Respondents:

1. **Warning**
2. **Required Training**
3. **Demotion**
4. **Suspension Without Pay**

- 5. Termination
- 6. Other Actions

- **Notice of CRHB Decision:**

The Chair of the CRHB will prepare a written deliberation report and deliver it to the CRCO, detailing the finding, how each member voted (“**Responsible**” or “**Not Responsible**”), the information cited by the panel in support of its recommendation, and any information the CRHB excluded from its consideration and why. The report should conclude with any recommended sanctions. This report should not exceed two pages in length and must be submitted to the CRCO within two (2) business days of the end of the hearing.

The CRCO will inform the Respondent and Complainant of the final determination of the CRHB within two to three (2-3) business days of the hearing. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in College records; or emailed to the parties’ College-issued email account. Once mailed, emailed and/or delivered in-person, notice will be presumptively delivered.

APPEALS PROCESS:

Informal Phase

Any party that is dissatisfied with the resolution or proposed resolution of a complaint during the Informal Phase may request that the matter be advanced to the Formal Phase.

Formal Phase

Determinations made at an administrative hearing or by the CRHB at the Formal Phase may be appealed by either party by submitting a Request for Appeal. The Request for Appeal must be submitted in writing to the CRCO and include the specific ground(s) for the appeal, as provided in the section below.

Grounds for Appeal

On appeal, the CRHB’s scope of review shall be limited to consideration of the following:

- To consider new information, unavailable during the informal phase and/or at the formal hearing, that could be outcome determinative.
- To assess whether a material deviation from written procedures impacted the fairness of the informal review or formal hearing process.
- To decide if a sanction issued to a Respondent was grossly disproportionate to the severity of the offense.
- To determine if the finding does not correspond with the information presented during the

investigation and/or at the formal hearing.

- To assess whether bias or conduct on the part of the CRCO and/or their designees during the investigation and/or administrative hearing or the CRHB at the formal hearing deprived the process of impartiality.

Deadline for Filing Appeals

The Request for Appeal must be submitted in writing to the CRCO within five (5) business days following the receipt of the decision from which the appeal is being taken.

Appeals Hearing Process

After receipt of the Request for Appeal, the CRCO will contact the parties to set up a time and location for the appeal hearing. The parties will be given at least one (1) week notice of the hearing.

At the hearing, the Complainant and/or Respondent may present any evidence that they feel is pertinent to their appeal. If a party is requesting that witnesses be permitted to attend or present evidence, that party must submit a list of requested witnesses to the CRCO at least two (2) business days prior to the appeal hearing. Individuals not so identified will not be permitted to attend or participate in the hearing.

An appeal is not a reinvestigation and/or a rehearing, though witnesses may be called or parties questioned as necessary. The reviewing body will be deferential to the original decision maker, making changes to the finding only where there is clear error and to the sanction only if a compelling justification to do so exists.

Appeals will be heard by the CRHB. Members of the CRHB Appeals Committee will be different individuals than those who served during the original formal hearing, to ensure impartiality.

The decision of the CRHB at the appeals phase is final, and will be issued within five (5) business days of the hearing. There are no further levels of appeal.

NOTIFICATION OF OUTCOMES:

Complainant and Respondent will receive written notification of the outcome of all complaints processed under these procedures. In cases that proceed to the Formal Phase, the notice will include the College's determination of whether the Respondent is responsible for each of the conduct and/or policy violations alleged in the complaint, the sanctions imposed, if any, and the rationale for those determinations. Where applicable, the notice will also describe the procedures available to appeal the determination. All notices required by these procedures will be issued by the CRCO. Findings of responsibility at all levels of these procedures will be based on a **preponderance of the evidence** standard.

The outcome and sanctions of a civil rights investigation under these procedures can become part of the educational record or the employment record of a Respondent. This information will not be further released or disclosed except to the extent required or authorized by applicable law.

Circumstances under which such information may be released or disclosed include, but are not limited to, the following:

- Complainants in sexual misconduct and sexual harassment incidents have an absolute right to be informed of the outcome and sanctions of the hearing, in writing, without condition or limitation for students and/or employees.
- The College may release publicly the name, nature of the violation and the sanction for any student who is found in violation of a College Policy that constitutes a “crime of violence,” including: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/ vandalism of property and kidnapping/abduction.

TIME FRAME:

The College will make a good faith effort to resolve all complaints in a reasonable timeframe in order to ensure fundamental fairness to all parties and provide a prompt, fair and impartial complaint process. Extenuating circumstances that may delay completion of the complaint process include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses or other unforeseen circumstances.

STATEMENT OF COMPLAINANT’S RIGHTS:

- To be treated with respect by College officials.
- Interim measures as outlined above.
- To be free from retaliation.
- To have complaints heard in substantial accordance with these Procedures.
- To be informed in writing of the outcome/resolution of the complaint, sanctions where permissible and the rationale for the outcome where permissible.

STATEMENT OF RESPONDENT’S RIGHTS:

- To be treated with respect by College officials.
- Interim measures as outlined above.
- To have complaints heard in substantial accordance with these Procedures.
- To be free from retaliation.
- To be informed of the outcome/resolution of the complaint and the rationale for the outcome, in writing.

FALSE REPORTING:

It is a violation of College policy to file a knowingly false or malicious complaint of an alleged civil rights violation, or to knowingly provide false information in connection with an investigation into a complaint filed under these procedures. Violations of this standard will result in disciplinary action. A complaint filed in good faith under these procedures will not result in disciplinary action.

RETALIATION:

Civil rights laws and College policies strictly prohibit retaliation against any person who, in good faith, reports or makes a complaint under these procedures or who testifies, assists or participates in any manner in any investigation or proceeding conducted hereunder. Any person who engages in prohibited retaliation will be subject to discipline, up to and including termination of an employee and/or expulsion of a student.

- Retaliation is any action by any person that is perceived as: intimidating, hostile, harassing, retributive or violent that occurred in connection to the making and investigation of the complaint.
- No person shall retaliate, intimidate, threaten, coerce or otherwise discriminate against any individual for exercising their rights and responsibilities under this Procedure.
- Any person who feels that they are a victim of retaliation should contact the CRCO immediately.

RECORD RETENTION:

The College shall retain documents related to complaints under this procedure as required by law. The CRCO shall be primarily responsible for records related to all civil rights complaints in accordance with ***Board Policy II.08, Records Management***.

Procedure developed by Sumana Misra-Zets, MEd
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adapted from the NCHERM/ATIXA Model Policy & Procedure for Civil Rights Equity

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