

Central Community College

Civil Rights Procedures

Updated: 5/2023

Central Community College affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All non-employee related policies below are subject to resolution using the Central Community College's Equal Opportunity, Harassment, and Nondiscrimination Policy and Procedure. The only employee related policy subject to this procedure is Title IX; all others may be rectified by other policies and procedures for employees. The Policy and Procedure is applicable regardless of the status of the parties involved, who may be members or non-members of the campus community, students, student organizations, faculty, administrators, and/or

EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION  
PROCEDURE



evidence, and compiling this information into an investigation report and file of directly related evidence.

- **Whistleblower** means an employee of the Central Community College who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.
- **Report** means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- **Officer of the College** (OWA) means an employee of the Central Community College explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the Central Community College.
- **Parties** include the Complainant(s) and Respondent(s), collectively.
- **Formal Grievance Process** means the Formal Grievance Process detailed below and defined above.
- **Remedial Actions** are post-finding or agreed upon informal actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the Central Community College's educational program.
- **Perpetrator** means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- **Outcome** means the result of an informal or Formal Grievance Process.
- **Sanction** means a consequence imposed by Central Community College on a Respondent who is found to have violated college policy.
- **Sexual Violence** is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. [See Section 17.b.](#), for greater detail.
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Title IX Team Members

Pool members are trained to fulfill various roles within the resolution process including but not limited to: Investigator, Hearing Panel/Decision Maker, Advisor, Appeal Officer. Updates to the pool members is completed quarterly.

Jason Davis  
Angela Davidson  
Michelle Lubken  
Janel Walton  
Gerald Dunn  
Josh York  
Kelly Christensen  
Sean Griffin  
Lauri Shultis  
Lenore Koliha  
Ashley Weets

Central Community College has determined that the following administrators are Officials with Authority to address and correct harassment, discrimination, and/or retaliation. In addition to the Title IX Team members listed above, these Officials with Authority listed below may also accept notice or complaints on behalf of Central Community College.

Dr. Christopher Waddle  
Hastings Campus President  
[cwaddle@cccneb.edu](mailto:cwaddle@cccneb.edu)  
402-461-2400

Dr. Kathy Fuchser  
Columbus Campus President  
[kathyfuchser@cccneb.edu](mailto:kathyfuchser@cccneb.edu)  
402-562-1211

Dr. Candace Walton  
Vice President for Innovation and Instruction  
[candacewalton@cccneb.edu](mailto:candacewalton@cccneb.edu)

Joel King  
Vice President of Administrative Services  
[joelking@cccneb.edu](mailto:joelking@cccneb.edu)



Inquiries may be made externally to:

Office for Civil Rights (OCR)

U.S. Department of Education  
400 Maryland Avenue,  
SW Washington D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

Equal Employment Opportunity Commission (EEOC)

Contact: <http://www.eeoc.gov/contact/>

Nebraska EEOC Contact Information:

State-Level Equal Opportunity Officer  
Nebraska Department of  
Labor 550 S. 16th Street  
P.O. Box 94600  
Lincoln, NE 68509-4600  
Phone: 402-471-8358  
TDD/TTY: 800-833-7352  
Email: [eeoc@nebraska.gov](mailto:eeoc@nebraska.gov)

A Formal Complaint means a document filed/signed by the Complainant or signed by the Title IX

- 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

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

## 9. Emergency Removal

Central Community College can act to remove a Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the Behavioral Intervention Team (CARE Team) using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student or employee will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this procedure to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this procedure will be grounds for discipline, which may include expulsion or termination.

Central Community College will implement the least restrictive emergency actions possible considering the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or [employee's] access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

## 10. Promptness

All allegations are acted upon promptly by Central Community College once it has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but Central Community College will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in Central Community College procedures will be delayed, Central Community College will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed because of the delay.

## 11. Privacy

Every effort is made by Central Community College to preserve the privacy of reports.<sup>2</sup> Central Community College will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: Institutional Equity Manager, Division of Student Services, the CARE Team, Human Resources. Information will be shared as necessary with Investigators, Hearing Panel members/Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

Central Community College may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

Confidentiality and mandated reporting are addressed more specifically below.

## 12. Jurisdiction of Central Community College

This policy applies to the education program and activities of Central Community College, to conduct that takes place on the campus or on property owned or controlled by Central Community College, at Central Community College-sponsored events. The Respondent must be a member of Central Community College's community in order for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to Central Community College's educational program. Central Community College may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial Central Community College interest.

Regardless of where the conduct occurred, Central Community College will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial Central Community College interest includes:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that is detrimental to the educational interests or mission of the Central Community College.

If the Respondent is unknown or is not a member of the Central Community College community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the Central Community College's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.



College email accounts) will only be subject to this procedure when such online conduct can be shown to cause a substantial in-program disruption.

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but protected speech cannot legally be subjected to discipline.

Off-campus harassing speech by employees, whether online or in person, may be regulated by Central Community College only when such speech is made in an employee's official or work-related capacity.

#### 15. Nondiscrimination Policy:

Central Community College adheres to all federal and state civil rights laws and regulations prohibiting discrimination in public institutions of higher education.

Central Community College does not discriminate against any employee, applicant for employment, or student:

- Race,
- Religion,
- Hearing status,
- Personal appearance,
- Color,
- Sex,
- Pregnancy,
- Political affiliation,
- Source of income,
- Place of business,
- Residence,
- Religion,
- Creed,
- Ethnicity,
- National origin (including ancestry),
- Citizenship status,
- Physical or mental disability (including perceived disability),
- Age,
- Marital status,
- Family responsibilities,
- Sexual orientation,
- Gender identity,
- Gender expression,
- Veteran or military status (including disabled veteran, recently separated veteran, active-duty wartime or campaign badge veteran, and Armed Forces Service Medal veteran),
- Predisposing genetic characteristics,
- Domestic violence victim status,

This policy covers nondiscrimination in both employment and access to educational opportunities.





A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.<sup>3</sup> This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe and pervasive and objectively offensive.

When discriminatory harassment rises to the level of creating a hostile environment, Central Community College may also impose sanctions on the Respondent through application of one of the grievance processes below.

Central Community College reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected status. Addressing such conduct will not result in the imposition of discipline under Central Community College policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternate Resolution, and/or other informal resolution mechanisms.

#### b. Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the state of Nebraska regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

Central Community College has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex that satisfies one or more of the following:

education program or activity.<sup>4</sup>

3) Sexual assault, defined as:

- a) Sex Offenses, Forcible:
  - i) Any sexual act directed against another person,
  - ii) without the consent of the Complainant,
  - iii) including instances in which the Complainant is incapable of giving consent.
- b) Forcible Rape:
  - i) Penetration,
  - ii) no matter how slight,
  - iii) of the vagina or anus with any body part or object, or
  - iv) oral penetration by a sex organ of another person,
  - v) without the consent of the Complainant.
- c) Forcible Sodomy:
  - i) Oral or anal sexual intercourse with another person,
  - ii) forcibly,
  - iii) and/or against that person's will (non-consensually), or
  - iv) not forcibly or against the person's will in instances in which the Complainant is

- 1) Non-forcible sexual intercourse,
- 2) between persons who are related to each other,



Central Community College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy. Specific sanction information is below.

## Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation
- The responding party's disciplinary history
- Previous allegations or allegations involving similar conduct
- Any other information deemed relevant by the Hearing Panel/Decision-maker
- 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
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the reporting party and the community
- The impact on the parties

The sanctions will be implemented as soon as is feasible. The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by outside authorities.

## Student Sanctions:

The following are the usual sanctions that may be imposed:

- A formal statement that the conduct was unacceptable and a warning that further violation of any College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- A mandate to meet with and engage in either College-sponsored or external counseling to better comprehend the misconduct and its effects.
- A written reprimand for violation of College policy, 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 articulated and may include denial of specified social privileges, exclusion from co-curricular activities, no-contact orders, and/or other measures deemed appropriate.
- Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at the College.
- Permanent termination of student status and revocation of rights to be on



### c. Force, Coercion, Consent, and Incapacitation<sup>6</sup>

As used in the offenses above, the following definitions and understandings apply:

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want.").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

**Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive



someone kisses you; you can kiss them back (if you want to) without the need to explicitly obtain consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly

outside of Title IX when the act is based upon the Complainant's actual or perceived membership in a protected class and thus is subject to "Process B".

Sexual Exploitation, defined as: taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy. Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy.
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of revenge pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Creation, possession, or dissemination of child pornography

Threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person;

Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities;

Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;

Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the Central Community College community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy);

Bullying, defined as:



## 19. Mandated Reporting

All Central Community College employees (faculty, staff, administrators) are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected discrimination or harassment. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at Central Community College for a Complainant or third-party (including parents/guardians when appropriate):

### a. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

On-campus licensed professional counselors

Off-campus (non-employees):

- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

Campus counselors and/or the Employee Assistance Program are available to help free of charge and may be consulted on an emergency basis during normal business hours.

Central Community College employees who are confidential will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient, or parishioner.

## b. Anonymous Notice

Mandated Reporters are required to fully disclose all information, including the Complainant's identity, when making a report to the Title IX Coordinator.

Anonymous notice will be investigated by Central Community College to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided.

However, anonymous notice typically limits Central Community College's ability to investigate, respond, and provide remedies, depending on what information is shared.

## c. Mandated Reporters and Formal Notice/Complaints

All employees of Central Community College (including student employees), with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as "Take Back the Night" marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from Central Community College.

Supportive measures may be offered as the result of such disclosures without formal Central Community College action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment or discrimination of which they become aware is a violation of Central Community College policy and can be subject to disciplinary action for failure to comply.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

## 20. When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.











### 3. Initial Assessment

Following receipt of notice or a complaint of an alleged violation of this policy, the Title IX Coordinator<sup>10</sup>

a. Violence Risk Assessment

In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the CARE Team/College Counselor as a part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to impose transcript notation;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning/Trespass Order/ Persona-non-grata is needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the violence Risk A29c10(29c-1)(ng9(p)8(p)9(l)9(4)-1h(f)48s21 Tm (r)1(ea t4(f)48s21 T

Central Community College may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by the Central Community College; or
- 3) Specific circumstances prevent Central Community College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, Central Community College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal below. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

#### 4. Counterclaims

Central Community College is obligated to ensure that the grievance process is not abused for retaliatory purposes. The College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

#### 5. Right to an Advisor

The parties may each have an Advisor<sup>12</sup> of their choice present with them for all meetings and interviews within the resolution process if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>13</sup>

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

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<sup>12</sup> This could include an attorney, advocate, or support person. The law permits one Advisor for each party (witnesses are not entitled to Advisors within the process, though they can be advised externally).

<sup>13</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.





Central Community College may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

i. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators.

The parties are expected to provide timely notice to the Title IX Coordinator and Investigators if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

As a public entity, Central Community College fully respects and accords the Weingarten rights of employees. For parties who are entitled to union representation, Central Community College will allow the unionized employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are/are 3f theirsilted ioe to h perms55eeC beeCrrred uphold the7ie

#### a. Informal Resolution

Informal Resolution can include three different approaches:

- When the parties agree to resolve the matter through an alternate resolution mechanism [including mediation, restorative practices, etc.];
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process; or
- When the Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. If a Respondent wishes to initiate Informal Resolution, they should contact the Title IX Coordinator to so indicate.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, Central Community College will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from



Goals of the parties;  
Adequate resources to invest in Alternate Resolution (time, staff, etc.)

The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

c. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged procedure violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria in that section above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of Central Community College procedure and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

Title IX Coordinator:

- To provide appropriate intake of and initial guidance pertaining to complaints
- To act as an Advisor to the parties
- To serve in a facilitation role in informal resolution or Alternate Resolution if appropriately trained in appropriate resolution modalities (e.g., mediation, restorative practices]
- To perform or assist with initial assessment
- To investigate complaints
- To serve as a hearing facilitator (process administrator, no decision-making role)
- To serve as a Hearing Panel/Decision maker regarding the complaint
- To serve as an Appeal Decision-maker

b. Pool Member Appointment

The Title IX Coordinator, in consultation with the College President, appoints the Pool, which acts with independence and impartiality. While members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases, Central Community College can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.



Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by one or more of the following methods: in



- Provide each interviewed party and witness an opportunity to review and verify the Investigator's transcript of the relevant evidence/testimony from their respective interviews and meetings within 7 business days of the meeting.
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
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The Decision-makers will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the resolution process in the event that a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role in the matter does not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Chair or designee.

## 20. Evidentiary Considerations in the Hearing

Any evidence that the Decision-makers determine is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in as Invfa1cacbnt and art(e)ancaina





the Chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.



At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator such as the Title IX Coordinator or designee. The hearing facilitator may attend to logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

#### 28. Investigator Presents the Final Investigation Report

The Investigators will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-makers and the parties (through their Advisors). The Investigators will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-makers should ask the Investigators their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

#### 29. Testimony and Questioning

Once the Investigators present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-makers and then by the parties through their Advisors ("cross-examination").

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request or agreed to by the parties and the Chair), the proceeding will pause to allow the Chair to consider it, and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may explore arguments regarding relevance with the Advisors if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious, or abusive. The Chair has final say on all questions and determinations of relevance, subject to any appeal.

### 30. Refusal to Submit to Cross-Examination and Inferences

If a party or witness chooses not to submit to cross examination at the hearing, either because they do not attend the meeting or they attend but refuse to participate in questioning, the Decision-makers can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions. If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-makers may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-makers must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with the Central Community College's established rules



The Notice of Outcome will also include information on when the results are considered by Central Community College to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

#### 34. Statement of the Rights of the Parties (See Appendix B)

#### 35. Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- 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
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-makers

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

##### a. Student Sanctions [Example]

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination<sup>14</sup>:

- A formal statement that the conduct was unacceptable and a warning that further violation of any Central Community College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- A mandate to meet with and engage in either Central Community College-sponsored or external counseling to better comprehend the misconduct and its effects.
- A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- Termination of student status for a definite period of time not to exceed two years

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<sup>14</sup> Subject to Central Community College's Employee and Student Code of Conduct/Policies.

and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at Central Community College. [insert transcript notation here if applicable].

- Permanent termination of student status and revocation of rights to be on campus for any reason or to attend Central Community College-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript, [subject to any applicable expungement policies.]
- : Central Community 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 an allegation pending or as a sanction if the student is found responsible for an alleged violation.
- Central Community College reserves the right to revoke a degree previously awarded from Central Community College for fraud, misrepresentation, and/or other violation of Central Community College policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- : Deactivation, loss of recognition, loss of some or all privileges



jurisdiction over the withdrawn student.

However, Central Community College will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to Central Community College. Such exclusion applies to all campuses of



Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

Central Community College may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

#### c. Appeal Considerations

Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.

Appeals are not intended to provide for a full re-hearing (*de novo*) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.

An appeal is not an opportunity for Appeal Decision-maker to substitute their judgment for that of the original Decision-makers merely because they disagree with the finding and/or sanction(s).

- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Procedure modification and/or training
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by Central Community College to the Respondent to ensure no effective denial of educational access.

Central Community College will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the College's ability to provide these services.

#### 39. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-makers (including the Appeal Decision Maker).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from Central Community College and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

#### 40. Recordkeeping

Central Community College will maintain for a period of at least seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to Central Community College's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. Central Community College will make these training materials publicly available on Central Community College's website.

7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;
  - b. Any measures designed to restore or preserve equal access to Central Community College's education program or activity; and
  - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Central Community College will also maintain any and all records in accordance with state and federal laws.

#### 41. Disabilities Accommodations in the Resolution Process

Central Community College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the Central Community College's resolution process.

Anyone needing such accommodations or support should contact the Director of Disability Services or ADA/504 Coordinator or designee who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

PROCESS B

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Incident  
A potential pattern of misconduct  
A culture/climate issue

In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the CARE Team (Behavior Intervention Team) as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- Interim suspension of a Respondent who is a threat to health/safety
- Whether the Title IX Coordinator should pursue Administrative Resolution absent a willing/able Complainant
- Whether to put the investigation on the footing of incident and/or pattern and/or climate
- To help identify potentially predatory conduct
- To help assess/identify grooming behaviors
- Whether a Complaint is amenable to Informal Resolution, and what modality may be most successful
- Whether to permit a voluntary withdrawal by the Respondent
- Whether to impose transcript notation or communicate with a transfer College about a Respondent
- Assessment of appropriate sanctions/remedies
- Whether a Clery Act Timely Warning and/or Trespass order/Persona-non-grata is needed

Based on the initial assessment, the College will initiate one of these responses:

- Dismissal Response- will dismiss the case under process B as based on the inquiry there is not sufficient documentation or evidence to support a possible college policy violation. Upon dismissal, at the Title IX Coordinators discretion, can provide suggestions for alternate resolutions.
- Supportive Response – measures to help restore the Complainant’s education access, as described in the policy.
- Informal Resolution – typically used for less serious offenses and only when all parties agree to Informal Resolution, or when the Respondent is willing to accept responsibility for violating policy.
- Administrative Resolution – investigation of alleged policy violation(s) and recommended finding, subject to a determination by the Title IX Coordinator or Decision-maker(s) and the opportunity to





- - How to assess credibility
  - Impartiality and objectivity
  - Types of evidence



Central Community College provides Advisors in the Resolution Process. The Title IX Coordinator will assist parties in reviewing the available Advisors at the time a complaint is received. Parties are responsible for informing the Title IX Coordinator if they plan to use an internal Advisor and if so, the name of the pool member so the Title IX Coordinator can assign them the case.

For parties seeking external advisors:

For representation, Respondents may wish to contact organizations such as:

- Families Advocating for Campus Equality (<http://www.facecampusequality.org>)
- Stop Abusive and Violent Environments (<http://www.saveservices.org>)

In an Alternative Resolution, a trained administrator or third party (contracted at the discretion of the Title IX Coordinator) facilitates communication among with the parties to an effective resolution, if possible. Institutionally imposed sanctions are not possible as the result of an Alternative Resolution process, though



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The investigation recommendation, if any, should be strongly considered but is not binding on the Title IX Coordinator/Decision-Maker. The Title IX Coordinator or Decision-maker may invite and consider impact and/or mitigation statements from the parties if and when determining appropriate sanction(s), if any.

#### Additional Details of the Investigation Process

##### Witness Responsibilities

Witnesses (as distinguished from the parties) who are college faculty or staff are required to cooperate with and participate in the College's investigation and Resolution Process. Failure of a witness to cooperate











Following the conclusion of the Resolution Process, and in addition to any sanctions implemented, the Title IX Coordinator may implement long-term remedies or actions with respect to the parties and/or the campus community to stop the harassment, discrimination, and/or retaliation; remedy its effects; and prevent its reoccurring effects; remedy its effects; and

will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

### Revision

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator. The College reserves the right to make changes to this document as necessary and once those changes are approved by college leadership and/or posted online, they are in effect.

The Title IX Coordinator may make minor modifications to these procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules.

The Title IX Coordinator may also vary procedures materially with notice (on the College website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure.

Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when









## APPENDIX B: STATEMENT OF RIGHTS OF THE PARTIES

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or discrimination made in good faith to Central Community College officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
-

are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:

- Relocating an on-campus student's housing to a different on-campus location
- Assistance from Central Community College staff in completing the relocation
- Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
- Transportation accommodations
- Visa/immigration assistance
- Arranging to dissolve a housing contract and a pro-rated refund
- Exam, paper, and/or assignment rescheduling or adjustment
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- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged policy violations addressed by Investigators, Title IX Coordinators, and Decision-makers who have received at least 8 hours of relevant annual training.
- The right to a Hearing Panel that is not single sex in its composition, if a panel is used.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any Central uhe sta(of)-1( Co)-1(atio)1(d)4706 rg67(Tat )1( pol)-1ls 182.t1 0 (osi)-1(of )45(t54