



Title IX Sexual Harassment Policy and Procedures Ozark Christian College (8-14-20)

A. Purpose

The purpose of this policy is to prohibit all sexual harassment as defined by the Department of Education and to outline the procedures that will be followed if there is a complaint or report of sexual harassment. To ensure compliance with civil rights laws and regulations, the college has developed internal policies and procedures to provide a prompt, fair, and impartial process in allegations of harassment on the basis of sex. Ozark Christian College encourages all individuals to report sexual harassment to the college and to appropriate law enforcement officials.

B. Policy

The college is committed to providing a workplace and educational environment that are free from discrimination, harassment, and retaliation. In compliance with Title IX of the Education Amendments of 1972 and its implementing regulations, the college prohibits discrimination and harassment based on sex in all of the college's educational programs and activities over which it exercises substantial control within the United States. Title IX and its regulations also prohibit retaliation for asserting claims of sex discrimination.

No person making a report, making a formal complaint, or participating in any part of the Title IX grievance process should be subjected to intimidation, threats, coercion, or discrimination for the purpose of interfering with any right or privilege secured by Title IX. Such retaliation is strictly prohibited and will be subject to review and/or resolution under other college policies. Complaints of retaliation arising from a Title IX grievance process should be reported directly to the Title IX Coordinator.

This policy applies to all college employees, students, applicants for employment, customers, third parties, contractors, and all other persons that participate in the college's educational programs and activities, including visitors on campus. The college's prohibition on sexual harassment extends to all of its educational programs and activities, including, but not limited to, admissions, employment, academics, housing, and student services. Individuals under the jurisdiction of the college who violate this policy will be subject to disciplinary actions. Under certain circumstances, sexual harassment also may result in criminal or civil penalties.

C. Statement of Nondiscrimination

Ozark Christian College does not discriminate based on race, ethnicity, national origin, sex, disability, age, veteran status, or any other protected legal status in matters of admissions, employment, housing, educational programs, or activities. It operates in compliance with federal non-discrimination laws (Title IX of the Education Amendments of 1972, Title VI and Title IX of the Civil Rights Act of 1964, Section

504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Violence Against Women Act-VAWA). As a private religious institution, the college is exempt from certain regulations and retains the right to make legitimate employment, admission, and educational decisions on the basis of its religious tenets in a manner that is consistent with applicable laws (Title IX, First Amendment, Religious Freedom Restoration Act, etc.).

D. Definitions

Student is an individual taking a course at Ozark Christian College, for college credit or non-credit, for continuing education, personal development, adult education, literacy, or professional development, whether or not pursuing any degree or program offered by Ozark Christian College. The college has jurisdiction for disciplinary purposes over persons who were enrolled students at the time they allegedly violated the standards of student conduct. Individuals who withdraw after allegedly violating the standards, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been accepted for admission are considered students under this policy.

Advisor is a person chosen by a party or appointed by the institution to accompany the party in meetings related to the resolution process, to advise the party on that process, and to conduct all cross-examination for the party at the live hearing.

Amnesty is offered to encourage reporting crimes of sexual violence. The college offers amnesty from other incident-related policy violations to individuals who report crimes of sexual violence.

Appellate officer is an individual who hears and decides appeals of findings and sanctions made in accordance with this policy.

Attempts to commit any of the listed violations will be treated the same as if they were completed.

College community includes students, faculty, and staff of the college, the board, visitors, contractors, consultants performing work on college-controlled property, and any other invitee of the college.

Complainant is an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class or a victim of retaliation for engaging in a protected activity.

Consent is an affirmative agreement through clear actions or words to engage in intimate activity. A person who is incapacitated, unconscious, unaware, or otherwise helpless cannot consent to sexual activity. One who is coerced, a minor, incapacitated due to disability, intoxicated, under the influence of drugs, or asleep cannot consent. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Previous relationships or prior consent cannot imply consent to future sexual acts. Consent can be withdrawn once given if the withdrawal is clearly communicated.

Educational program or activity are locations, events, or circumstances where the college exercises substantial control over both the respondent and the context in which the sexual harassment or discrimination occurs.

Exculpatory evidence is evidence which exonerates an individual for a college policy violation.

Finding is a conclusion by the standard of proof that the conduct did or did not occur as alleged.

Formal complaint is a document signed by a complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a respondent and requesting that the college investigate the allegation.

Formal grievance process is a method of formal resolution to address conduct that falls within the policies included below and which complies with the requirements of 34 CFR Part 106.

Hearing officer can be an individual or a panel who has decision-making and sanctioning authority in the college's formal grievance process.

Inculpatory evidence is evidence that implicates an individual with responsibility for a college policy violation.

Investigator is the person or persons charged by the college with gathering facts about an alleged violation of this policy, assessing relevance and credibility, synthesizing the evidence, and compiling the information into an investigation report along with a copy of the related evidence.

Parties mean the complainant(s) and respondent(s), collectively.

Preponderance of evidence is the standard of proof utilized in all college investigations. The standard is met when it is more likely than not that a policy violation occurred.

Remedies are post-finding actions directed to the complainant and/or the college community to address safety concerns, prevent recurrence, and restore access to the college's educational programs.

Respondent is an individual who has been alleged to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class or alleged to have retaliated under this policy.

Resolution is the result of an informal or formal grievance process.

Sanctions are consequences imposed by the college on a respondent who is found to have violated this policy.

Supportive measures are non-disciplinary, non-punitive services offered without fee or charge to restore or preserve equal access to the college's educational programs and activities, including measures designed to protect the safety of all parties and to deter sexual harassment.

Title IX coordinator is the official designated by the college to ensure compliance with Title IX and oversee the college's Title IX program.

E. Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Missouri regard Sexual Harassment as an unlawful discriminatory practice. Sexual harassment is an umbrella category that includes quid pro quo harassment, hostile environment harassment, sexual assault, domestic violence, dating violence, and stalking.

Quid Pro Quo Harassment

Unwelcome conduct of a college employee who conditions the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct. Typically, sexual harassment involves relationships of unequal physical power or unequal power of authority, and, therefore, can contain elements of coercion and threat. As a result, the college strongly discourages any consensual relationship involving a subordinate employee or student that could lead to alleged or actual sexual harassment.

Hostile Environment Harassment

Unwelcome conduct, determined by a reasonable person, to be so severe, pervasive, and, objectively offensive, that it effectively denies a person equal access to college education program or activity.

Sexual Assault

Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. Title IX regulations have adopted the following types of sexual assault (consistent with Clery Act reporting):

- **Rape:** Penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. The State of Missouri classifies the crime of rape under statutes Rape in the first degree and Rape in the second degree. (RSMo 566.030 and 566.031).
- **Fondling:** Touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity. The state of Missouri classifies fondling under the Sexual Abuse statutes (RSMo 566.100 and 566.101)

- **Sodomy:** Oral or anal sexual intercourse with another person without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- **Sexual assault with an object:** Using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. An “object” or “instrument” is anything used by the perpetrator other than the perpetrator’s genitalia.
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence

A felony or misdemeanor crime of violence committed by:

- a current or former spouse or intimate partner of the complainant;
- a person with whom the complainant shares a child in common;
- a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner;
- a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
- any other person against an adult or youth victim, protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for the person’s safety or the safety of others; or (ii) suffer substantial emotional distress.

Retaliation

Retaliation is any adverse action against a person because they filed a complaint or provided relevant information in an investigation. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated.

F. Procedures

Jurisdiction

The Title IX grievance process is available when a formal complaint falls within the college’s jurisdiction. The college’s Title IX jurisdiction includes locations, events, or circumstances over which the college exercises substantial authority and control. This policy does not apply to sexual harassment that occurs off-campus, in a private setting, outside the scope of the college’s education programs, or outside of the United States. However, such conduct may be prohibited by the student conduct code if committed by a student or prohibited by the employee conduct code if committed by an employee. If a report alleges actions which fall outside of the scope and jurisdiction of this policy, the college will review the standards of student conduct and employee conduct for resolution.

Title IX Coordinator

The college has designated a Title IX Coordinator to ensure its compliance with Title IX and to receive inquiries regarding Title IX, including complaints of sex discrimination. The Title IX Coordinator has the primary responsibility to coordinate the college's efforts related to the intake, investigation, resolution, and implementation of investigations and supportive measures. The Title IX Coordinator manages the Title IX team and oversees all resolutions under this policy and these procedures. Members of the Title IX team are selected and trained to ensure they are not biased for or against any party, or in favor or against complainants and respondents in general. The Title IX Coordinator is responsible for ensuring the college's policies relating to Title IX are made available to all current and prospective students, current and prospective employees, and the general public.

Complaints or notices of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made to:

- **Title IX Coordinator:** Monte Shoemake, Senior Director of Community Standards and Campus Safety, Office: Casteel Administration Building, AC166, Phone: (417) 626-1208, shoemake.monte@occ.edu
- **Title IX Deputy Coordinator:** Sara Wood, Director of Student Health, Office: Richardson Health Center, MC111, (417) 626-1213, wood.sara@occ.edu

Evening and weekend assistance is available by calling Campus Security at (417) 626-1200. The college can assist in facilitating medical treatment, contacting a victim's advocate, a support person, the Title IX Coordinator, or minister, as well as reporting the crime to local law enforcement if requested.

Additionally, anonymous reports can be made by using OCC's online reporting form at occ.edu/anonymous-reporting.

Inquiries concerning Title IX also may be referred to the United States Department of Education's Office for Civil Rights. For further information, visit <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>. Contact Information: Office for Civil Rights, U.S. Department of Education; One Petticoat Lane, 1010 Walnut, 3rd Floor, Suite 320; Kansas City, MO 64106; Email: OCR.KansasCity@ed.gov; Telephone: 816-268-0550; FAX: 816-268-0599; TDD: 800-877-8339.

Title IX Process Training

The Title IX Coordinator is responsible for ensuring ongoing training for all college personnel associated with the Title IX grievance process, including investigators, advisors, hearing officers, and appellate officers. Such training may be conducted internally or through organizations and agencies outside the college, and includes all policies and practices associated with the college's Title IX grievance process, best practices in investigative and hearing panel processes, determining credibility and relevance, impartiality and implicit bias, updated guidance relating to Title IX, among other topics. The college will retain all materials used to train Title IX grievance process personnel for no less than seven (7) years and post those materials on its website.

Training is provided for Title IX team members each year. The materials used to train all members are publicly posted on the OCC website. The training materials are available at thompsoncoburn.com/title-ix-training-series-materials or youtube.com/playlist?list=PLYrJQ3qn6Pn15VmKJDQ0ICDJeNLXhL4bm.

Formal Complaint

A formal complaint is when a complainant signs and files a report with the Title IX Coordinator requesting that the college investigate and adjudicate an allegation of sexual harassment. The complainant must be participating or attempting to participate in one or more of the college's educational programs or activities when the complainant submits a complaint. A complainant may file a formal complaint with the Title IX Coordinator in person, by regular mail, or by email. No other person may submit a formal complaint on the complainant's behalf.

The Title IX Coordinator may file a formal complaint on behalf of the college if it is not clearly unreasonable. Such action would be taken in limited circumstances involving serious or repeated conduct, when a complainant elects not to file a formal complaint, or where the alleged perpetrator may pose a continuing threat to the college community.

Once a signed formal complaint is filed, the college will commence an investigation and proceed to adjudicate the matter. In every case, the complainant will be treated as a party regardless of the party's level of participation. If the Title IX Coordinator files a formal complaint, the Title IX Coordinator will not serve as the complainant, investigator, or adjudicator in the process.

The Title IX Coordinator may consolidate formal complaints involving more than one complainant or more than one respondent where the allegations of sexual harassment arise out of the same set of circumstances.

Sexual History

During the investigation and adjudication, questions about complainant's sexual predisposition or prior sexual behavior are not relevant unless offered to prove that a person other than the respondent committed the allegation or relates to the complainant's previous sexual behavior with the respondent to prove consent. A complainant who affirmatively uses information otherwise considered irrelevant to support the complainant's allegations may waive the protections of this section. The college does not require, allow, rely upon, or otherwise use evidence that seeks disclosure of information protected under any legally recognized privilege unless the person holding such privilege has waived the privilege.

Initial Assessment

Upon receipt of a report, the Title IX Coordinator will conduct an initial assessment to determine whether the conduct, as reported, (1) falls or could fall within the scope of the policy and (2) constitutes or could constitute sexual harassment as defined in this policy.

In the event the Title IX Coordinator determines the formal complaint should be dismissed, the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal. A dismissal pursuant to this section is a final determination for purposes of this policy, unless otherwise specified by the Title IX Coordinator in the written notice of dismissal.

Mandatory Dismissals

Formal complaints which do not meet the definition of sexual harassment included in this policy even if proved, describe events which occurred outside of an educational program, or did not occur in the United States must be dismissed. However, such complaints may be subject to review and/or resolution under other college grievance policies in accordance with Title VII for employees and standards of student conduct.

Discretionary Dismissals

Complaints may be dismissed at the discretion of the Title IX Coordinator if a complainant communicates in writing their desire to withdraw the formal complaint, if the respondent is no longer under the control or authority of the college, or specific circumstances prevent the college from gathering evidence sufficient to make a determination.

Emergency Removals

The Title IX Coordinator may remove respondents from the college on an emergency basis if they pose an immediate threat to the college community or cannot otherwise safely participate in an educational activity while the sexual harassment grievance process is being conducted. If a determination for an

emergency removal is made, the Title IX Coordinator must provide the respondent with written notice of the decision and an opportunity for an expedited appeal of the determination.

A non-student employee may be removed from campus for any part of the Title IX grievance process through administrative leave under the direction of the human resources office and no risk assessment is required under such circumstances.

Supportive Measures

Supportive measures are individualized measures intended to help those who may have experienced incidents of sexual harassment or sexual assault so they may participate in campus life at OCC and continue with their studies or work. Supportive measures may be implemented *at any time* and may include but are not limited to these examples:

- Course-related extensions and adjustments
- College-issued and enforced no contact orders
- Work and/or course schedule adjustments
- Changes in housing and seating
- Leaves of absence
- Increased monitoring of certain areas of the campus

The Title IX Coordinator work with students, faculty, and staff to ensure that supportive measures are individually tailored to meet each individual's unique needs. It is not necessary to file a formal complaint with the Title IX Coordinator in order to receive supportive measures.

Local Resources

- **Lafayette House:** 1809 S Connor Ave, Joplin, 800-416-1772. Lafayette House will provide a **victim's advocate** (go to hospital at the request of the victim) and other resources.
- **Ozark Center Crisis Services:** 3006 McClelland Blvd, Joplin, 800-247-0661, 417-347-7720 (24/7 crisis helpline).
- **Freeman Hospital West:** 1102 W 32nd St, Joplin Missouri, 417-347-1111
- **Freeman Hospital East:** 932 E 34th St, Joplin, Missouri 64804, 417-347-1111
- **Mercy Hospital:** 100 Mercy Way, Joplin, Missouri 64804, 417-556-3729

National Resources

- **National Domestic Violence Hotline** – 800-799-7233 – thehotline.org/
- **National Center of Victims of Crime Stalking Resources** – 202-467-8700 – victimsofcrime.org/stalking-resource-center/
- **Rape, Abuse and Incest National Network (RAINN)** – 800-656-HOPE (4673) – rainn.org/

Off-Campus Reporting Options:

- **Joplin Police Department**, 303 E 3rd St, Joplin, MO, 417-623-3131
- **Hospitals**—all provide sexual assault exams for victims to preserve evidence:
 - **Freeman West**, 1102 W 32nd St, Joplin Missouri, 417-347-1111
 - **Freeman East**, 932 E 34th St, Joplin, Missouri 64804, 417-347-1111
 - **Mercy**, 100 Mercy Way, Joplin, Missouri 64804, 417-556-3729

Notice of Formal Complaint

Within five (5) days of receiving a signed formal complaint, the Title IX Coordinator will send a written notice to the complainant and respondent that includes:

- A complete copy of the “Title IX Sexual Harassment Policy and Procedure”;

- Sufficient details of the process so that the parties may prepare for an initial interview with the investigator, including the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, the date, and the location of the alleged incident (if known);
- A statement that the college operates with the presumption that the respondent is not responsible for the reported misconduct unless and until the respondent is determined to be responsible for a policy violation by a preponderance of the evidence;
- Notification to the complainant and respondent of their right to be accompanied by an advisor of their choosing;
- A statement that the complainant and respondent have a right to inspect and review all evidence;
- Notifying the complainant and respondent of the college's prohibitions on retaliation and making false statements; and
- Information about resources that are available on campus and in the community.

If the college decides to investigate allegations not included in the initial written notice, the college institution must provide an updated written notice to the parties detailing the new allegations.

Assignment of Investigator(s)

When a formal complaint is filed, a fair and impartial investigation will be launched. The Title IX Coordinator will select an investigator or team of investigators with no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest of the investigators, and the Title IX Coordinator will determine whether the concern is reasonable. If bias or a conflict of interest is found, the Title IX Coordinator will reassign an investigator and remedy any impact of the bias or conflict.

The investigators may be members of the college community, or the duties may be delegated to outside personnel. The investigators will meet with each party individually to collect relevant evidence. Both parties are entitled to the identification of witnesses and to submit inculpatory and exculpatory evidence. The burden for gathering sufficient evidence to reach a determination of responsibility for sexual harassment rests with the college.

The college will avoid the use of legally privileged documentation. An institution cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the institution obtains that party's voluntary, written consent to do so for a grievance process under this section.

Investigation Timeline

Although investigations vary, the college attempts to complete investigations within forty-five (45) days of the written notice of formal complaint. The college will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate with the parties to keep them updated. If the college delays its investigation, it will communicate in writing the reason and anticipated duration of the delay. Actions by the college will not be influenced if related civil or criminal charges have been filed or dismissed.

Parties are given an opportunity to present testimony and other evidence relevant to resolution of the allegations in the formal complaint. The investigator will provide equal opportunities for the parties to be interviewed, to name witnesses, and to present other inculpatory and exculpatory evidence. However, the investigator retains discretion to limit the number of witness interviews if the investigator finds that testimony would be cumulative, if witnesses who only are character references, or if the testimony would be inadmissible. The investigator will not restrict the ability of the parties to gather and present relevant

evidence on their own. The investigator will keep all notes, audio recordings, video recordings, or transcriptions from the investigation.

Advisors

Both parties have the right to choose an advisor to accompany them in meetings related to the resolution process, to advise them, and to conduct the cross-examination at a live hearing. If a party is not able to find an advisor, an advisor will be appointed by the Title IX Coordinator to assist them during the live hearing at no cost to the individual. The college is not required to appoint an advisor during the investigation stage. An advisor is required on behalf of both parties to conduct cross-examination during a live hearing. A party will not be allowed to personally conduct cross-examination of a witness or the other party during a live hearing. Other than questioning of witnesses during a live hearing, the advisor will play a passive role. The advisor is not permitted to communicate on behalf of a party, insist that communication go through the advisor, or to communicate with the college without the actual party being included.

All participants must maintain proper decorum, remain at their respective assigned table at all times, and direct all communications to the hearing officer with the exception of questions posed to the other party and witnesses by each party's respective advisor. If a party's advisor of choice violates any of these policies, the college may preclude that advisor from participating in the process and the party will need to select a new advisor. A party may change advisors at any time during the process. The parties must notify the Title IX Coordinator if they change advisors at least five (5) business days before a hearing.

The Advisor's Role

The law allows one advisor for a complainant and one for the respondent only. Advisors can attend all interviews, hearing, or other meetings with a party. However, advisors may not ask or answer questions unless invited to by the Title IX official. Parties are expected to ask and respond to questions on their own during the investigation phase of the resolution process. Advisors may not speak on behalf of a party except during cross-examination in a live hearing. Advisors may consult with their party privately during the meeting.

Any advisor who violates these rules will be warned once. If the advisor continues to violate the rules, the official will end the meeting or impose other measures. The college may require the party to use another advisor. If a college-provided advisor refuses to comply with the rules the college may appoint another advisor to conduct cross-examination for a party.

Privacy of Records Shared with Advisor

The parties must complete, sign, and submit a consent form to the Title IX Coordinator before the college will share any records with an advisor. Advisors must maintain the privacy of the records and not disclose them to any other third party.

Confidentiality

The college will keep confidential the identity of any individual who has made a report or formal complaint of sexual harassment or retaliation including the complainant, respondent, and any witness. The college will also maintain the confidentiality of its various records generated in response to reports and formal complaints, including, but not limited to, information concerning supportive measures, notices, investigation materials, adjudication records, and appeal records.

Certain types of sexual harassment will be disclosed as crime statistics in the college's Annual Security Report, but will not include any personally identifying information.

Review of Evidence and Comment Period

At the conclusion of the evidence-gathering phase of the investigation, but before the completion of the investigation report, the Investigating Officer will send each party and their advisor all evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint. The parties will have ten (10) days in which to submit to the investigator a written response for the investigator to consider prior to completing the investigation report. The parties and their advisors are permitted to review the evidence solely for the purposes of this grievance process and may not disseminate the evidence in any manner.

Review of Investigation Report

After the time for written response has expired, the investigator will complete a written investigation report that summarizes the steps taken during the investigation, the relevant evidence collected, the facts on which the parties agree, and the facts on which the parties do not agree. When the investigation report is complete, the investigator will send a copy to the Title IX Coordinator. The Title IX Coordinator will transmit the investigation report to each party at least ten (10) days before the live hearing date. In addition, the Title IX Coordinator will send each party a description of the two different adjudication processes. The notice will explain that the live hearing process is the default process to be used for adjudicating all formal complaints unless both parties voluntarily consent in writing to an optional informal resolution. If both parties consent, an informal resolution process will be used in lieu of the live hearing process. Parties are encouraged to carefully review this policy with their advisor or legal counsel prior to waiving their right to a live hearing.

Informal Resolution

The parties may voluntarily consent to engage in mediation, administrative resolution, or some other form of informal resolution that is pre-approved by the Title IX Coordinator to resolve the allegations raised in the formal complaint. An informal resolution to a formal complaint of sexual harassment only can be used when the complainant and respondent are equally and voluntarily agreeable to reaching a resolution without a full investigation or live hearing. If either party does not sign a written consent for informal resolution, the formal complaint will be adjudicated pursuant to the live hearing process. However, a decision to stop formal proceedings and engage in an informal resolution may be made at any time during the grievance process, with the voluntary, written consent of both parties. The parties have the right to withdraw from an informal resolution process and resume the Title IX grievance process at any time before it becomes final.

The specific manner of any informal resolution process will be determined by the parties and the Title IX Coordinator. The Title IX Coordinator will send a written notice to all parties that:

- Describes the procedures of the informal resolution process to be utilized;
- Identifies who will facilitate the informal resolution (whether it will be the Title IX Coordinator, another college official, or a suitable third-party);
- Describes the effect of participating in informal resolution and/or reaching a final resolution on a party's ability to resume the investigation and adjudication of the allegations at issue in the formal complaint; and
- Explains any other consequence resulting from participation in the informal resolution process, including a description of records that will be prepared, maintained, and/or shared.

Informal resolution can include but is not limited to the following:

- When the parties agree to resolve the matter through an alternate resolution mechanism (including administrative resolution, 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 resolves the matter informally by providing supportive measures to remedy the situation.

No informal resolution will be permitted if the respondent is a non-student employee accused of committing sexual harassment against a student.

Administrative Resolution

In lieu of the live hearing process, the parties may consent to have a formal complaint resolved by administrative resolution as a form of informal resolution. At any time prior to the issuance of the administrative officer's determination, a party has the right to withdraw from an administrative resolution and request a live hearing.

If an administrative resolution is selected, the Title IX Coordinator will appoint an administrative officer. The Title IX Coordinator will give the administrative officer a copy of the investigation report and all the evidence collected by the investigator. The administrative officer will send a written notice to the parties specifying: the administrative officer's appointment; setting a deadline to submit any written response to the investigation report; and the schedule for the parties to meet with the administrative officer within ten (10) days after the written notice. A party's written response to the investigation report must include:

- The extent to which the party disagrees with the investigation report along with any argument or commentary regarding such disagreement;
- Any argument that a particular piece or class of evidence should be excluded from consideration at the hearing based on privilege, relevancy, the prohibition on the use of sexual history specified in "Sexual History," or for any other reason; and
- Any argument regarding whether any of the allegations in the formal complaint constitute sexual harassment by a preponderance of the evidence.

After reviewing the written responses, the administrative officer will meet separately with each party to give them an opportunity to make any oral arguments and for the administrative officer to ask questions about the party's written response, the investigative report, and the evidence collected. After meeting with each party, the administrative officer will objectively evaluate all relevant evidence. The administrative officer will exclude any evidence that the administrative officer determines is inadmissible based on the objections and arguments raised by the parties in their respective written responses. The administrative officer will resolve disputed facts using a preponderance of the evidence standard and determine whether the facts constitute a violation of the policy. The administrative officer will consult with the Title IX Coordinator and prepare a written decision which shall serve as an informal resolution. Sending the administrative officer's written determination concludes the administrative resolution process and is subject to appeal.

No administrative resolution will be permitted if the respondent is a non-student employee accused of committing sexual harassment against a student

Default Process is a Live Hearing

The default process for adjudicating formal complaints is a live hearing. The hearing process will be used to adjudicate all formal complaints unless both parties timely consent to an administrative resolution or other informal resolution process.

After the review of the investigation report, a live hearing will be conducted by a hearing officer(s) to reach a final determination of responsibility for the allegations in the formal complaint at the conclusion of the hearing process. The Title IX Coordinator will not serve as a hearing officer. The Title IX Coordinator will select hearing officers or team of hearing officers with no actual or apparent conflicts of interest or disqualifying biases. Hearing officers may be contractors or members of the staff of the college, and will be trained for their role in the grievance process. The Title IX Coordinator will ensure

that the hearing officer is given a copy of the investigation report and all evidence transmitted to the parties.

Hearing Notice and Response to the Investigation Report

The hearing officer will send notice to the parties setting a deadline for parties to submit any written response to the investigation report and scheduling the pre-hearing conference and live hearing. A party's written response to the investigation report must include:

- The extent the party disagrees with the investigation report and any argument regarding such disagreement;
- Any argument that evidence should be excluded from consideration at the hearing based on privilege, relevancy, the prohibition on the use of sexual history, or any other applicable reason;
- A list of any witnesses that should be requested to attend the hearing pursuant to an attendance notice issued by the hearing officer;
- A list of any witnesses that the party intends to bring to the hearing without an attendance notice issued by the hearing officer;
- Any objection the party wants to make regarding the college's hearing procedures;
- Any request that the parties be separated physically during the pre-hearing meeting and/or hearing;
- Any other accommodations that the party seeks for pre-hearing conference or live hearing;
- The name and address of the advisor who will accompany the party at the pre-hearing conference and hearing;
- If the party does not have an advisor, a request that the college provide an advisor to conduct questioning.

A party's written response to the investigation report may include:

- Argument regarding whether any of the allegations in the formal complaint are supported by a preponderance of the evidence; and
- Argument regarding whether any of the allegations in the formal complaint constitute sexual harassment.

The parties will be sent a list of the names of hearing officer(s) at least seven (7) days in advance of the hearing. Any objections to the hearing officer(s) must be raised in writing and give the rationale for the objection. Objections should be submitted to the Title IX Coordinator as soon as possible and no later than four (4) days prior to the hearing. Hearing officer(s) will be removed only if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing.

Pre-Hearing Conference

The hearing officer(s) may convene a pre-hearing conference with the parties and their advisors to invite them to submit the questions or topics they wish to ask or discuss at the live hearing so the hearing officer can rule on their relevance in advance or to recommend any rephrasing.

The topics to be discussed by the hearing officer may include, but are not limited to:

- the hearing procedures;
- matters raised in the parties' written responses to the investigation report, as the hearing officer deems appropriate;
- discuss the witnesses the parties have requested be served with notices of attendance and/or witnesses the parties plan to bring to the hearing without a notice of attendance;
- resolving any other matters that the hearing officer determines should be resolved before the hearing.

The pre-hearing conference will be conducted with contemporaneous participation by the parties and their advisors. By default, the pre-hearing conference will be conducted with the hearing officer, the parties,

the advisors, and other necessary college personnel with technology enabling the parties to participate simultaneously and contemporaneously by video and audio. This advance review opportunity does not preclude the advisors from asking for a reconsideration based on any new information or testimony offered at the hearing. The hearing officers must document and share their rationale for any exclusion of questioning or evidence at this pre-hearing conference. At the pre-hearing conference, the parties may come to an agreement in writing on the relevance of any evidence at the live hearing or the need to hear relevant witnesses. If the parties agree, written statements of witnesses may be admitted without the need for live testimony from the witness. No evidence will be considered at the live hearing which was not introduced previously during the investigation and summarized in the investigative report for review.

Notice of Attendance

After the pre-hearing conference, the hearing officer will transmit notices of attendance to any college employee or student whose attendance is requested at the hearing as a witness. The notice will advise the subject of the specified date and time of the hearing and advise the subject to contact the hearing officer immediately if there is a material and unavoidable conflict. The college will not issue a notice of attendance to any witness who is not a college employee or a student.

Live Hearing

The live hearing may be conducted in one room with all parties physically present or, at the school's discretion, participants may appear virtually, with technology enabling them to see and hear each other. Disability-related accommodations relating to participation in a live hearing will be coordinated with the ADA coordinator for the college.

The hearing officer shall:

- Permit each party's advisor to cross-examine the other party and any witnesses in the live hearing directly, orally, and in real time;
- Require that cross-examination be conducted by the party's advisor and never by the party personally;
- Require that the institution provide an advisor to a party, free of charge, if a party does not have an advisor to conduct cross-examination;
- At the request of either party, require the live hearing to occur with the parties located in separate rooms, with technology enabling the adjudicator and parties to simultaneously see and hear the party or the witness answering questions;
- Describe that questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the alleged conduct, or concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent;
- Require that only relevant cross-examination and other questions may be asked of a party or witness; and require the hearing officer to determine whether a question is relevant, and explain any decision to exclude a question as not relevant, before a party or witness answers a cross-examination or other question;
- Explain that if a party or witness does not submit to cross-examination at the live hearing, the hearing officer must not rely on any statement of that party or witness in reaching a determination regarding responsibility;
- Explain the hearing officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions; and
- Require an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

During the live hearing, an advisor will ask relevant questions directly to the other party and/or witnesses. Any question asked that was not previously approved by the hearing officer during the pre-hearing meeting will be considered for its relevance by the hearing officer prior to the witness or party answering

the question. Any question the hearing officer finds to be irrelevant will not be answered by the witness being questioned, and the hearing officer will provide a written rationale for withdrawing the question. The hearing officer may consider the testimony of any party or witness, whether given during the investigation or during the hearing, if the parties jointly stipulate that the testimony may be considered or in the case where neither party requested attendance of the witness at the hearing.

Final Determination

After examining the evidence and the hearing is complete, the hearing officers will use the preponderance of the evidence standard of proof in determining whether it is more likely than not that a violation of this policy occurred as stated in the formal complaint. The hearing officers will evaluate all of the relevant evidence gathered during the investigation, together with evidence received at the hearing, and ensure that determinations of credibility are not based on a person's status as a complainant, respondent, or witness. Any evidence that was ruled inadmissible at the pre-hearing conference or during the hearing will be excluded from consideration.

The hearing officers will draft a final determination letter outlining the rationale for their decision. The Title IX Coordinator will send the final determination letter to both parties simultaneously. The written determination shall include:

- An identification of the allegations of sexual harassment;
- A recitation of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the school's sexual misconduct policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the school imposes on the respondent, and whether remedies designed to restore or preserve equal access to the school's education program or activity will be provided by the school to the complainant; and
- Procedures and permissible bases for appeal.

The appropriate college administrator will enforce the disciplinary sanctions and the Title IX Coordinator to implement all other remedies.

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

- The circumstances and severity of the violation
- The respondent's prior disciplinary history and allegations involving similar conduct
- The need to end or 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 college community

To ensure the safety of either party the sanctions will be enforced as soon as is feasible. If either party files an appeal, the sanctions will be stayed during the appeal process.

Possible Student Sanctions

Responsive actions for a student who has engaged in sexual harassment, discrimination, and/or retaliation include:

- Warning – Verbal or Written
- Required Counseling, Training, or Education
- Probation
- Suspension
- Expulsion
- Placing a hold on transcript, diploma, graduation, and course registration

- Other Actions: In addition to or in place of the above sanctions, the college may assign any other sanctions as deemed appropriate.

Possible Employee Sanctions

Responsive actions for an employee who has engaged in sexual harassment, discrimination, and/or retaliation include:

- Warning – Verbal or Written
- Performance Improvement/Management Process
- Required Counseling, Training, or Education
- Probation
- Loss of Annual Pay Increase
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Suspension with pay
- Suspension without pay
- Termination
- Other Actions: In addition to or in place of the above sanctions, the college may assign any other sanctions as deemed appropriate.

Appeals

Either party may appeal a dismissal, emergency removal, informal resolution, or final determination on one or more of the following grounds only:

- A procedural irregularity that affected the outcome;
- New evidence that was not reasonably available at the time the determination or dismissal was made and could affect the outcome; or
- The Title IX Coordinator, investigator, or adjudicator had a conflict of interest or bias that affected the outcome of the matter

An appeal must be filed within seven (7) days of receipt of the decision or within three (3) days of the other party filing an appeal. The appellant must include a copy of the decision, identify which of the three grounds for appeal are claimed, describe why the appeal should be granted, and mention the relief sought by the appellant. Appeals are not an opportunity to re-argue an outcome or seek a *de novo* review.

Appeals must be submitted in writing to the Title IX Coordinator who will appoint an appeal officer.

If the appeal is timely and invokes at least one permitted ground for appeal, the appeal officer will send a written notice to the other party that an appeal has been filed and give the other party five (5) days to submit a written opposition to the appeal. The Title IX Coordinator will give the appeal officer any records from the investigation and adjudication necessary to resolve the grounds raised in the appeal. Once the time for the parties to submit written opposition has passed, the appeal officer will decide the appeal and transmit a written decision to all parties explaining the final outcome of the appeal and the rationale. The appeal officer may decide:

- the appeal is denied and determination is made final;
- the appeal is granted and determination is changed by the appeal officer; or
- the determination is vacated and the matter is remanded for a new hearing.

A formal complaint becomes final when the time for appeal has passed or when the appeal officer has resolved all issues raised in a written decision. There is no further review after the appeal.

Retention of Title IX Grievance Process Files

The college will maintain the following records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment for at least seven (7) years:

- Investigation reports and evidence gathered.

- Informal resolution agreements.
- Supportive measures offered in response to a report or formal complaint of sexual harassment.
- The basis for the school's conclusion that its response was not deliberately indifferent.
- Documentation that the school took measures designed to restore or preserve equal access.
- If the school did not provide supportive measures, the reasons why such a response was not clearly unreasonable in light of the known circumstances.
- If there was an adjudication, the records also must include any determination regarding responsibility; audio or audiovisual recording or transcript; disciplinary sanctions imposed on the respondent; remedies provided to the complainant; appeal and the result.
- All materials used to train Title IX Coordinators, investigators, adjudicators, and any person who facilitates an informal resolution process. In addition, the college must make these training materials publicly available on its website.

MISSOURI STATE CRIMINAL DEFINITIONS AND PENALTIES

These legal definition links are provided as a service for individuals who wish to report criminal behavior to the police. In Missouri, sexual violence statutes include domestic assault, rape, statutory rape, sexual misconduct, sexual abuse, sexual solicitation, harassment, and stalking and are found in the Missouri State Statutes [565](#) and [566](#).

CONSENT

Missouri statute 556.061.14 defines "Consent". Consent or lack of consent may be expressed or implied. Assent does not constitute consent if:

- a. It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or
- b. It is given by a person who by reason of youth, mental disease or defect, intoxication, a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or
- c. It is induced by force, duress, or deception;

DOMESTIC ASSAULT

- Domestic assault, first degree 565.072
- Domestic assault, second degree 565.073
- Domestic assault, third degree 565.074
- Domestic assault, fourth degree 565.076

SEXUAL OFFENSES

- Rape in the first degree 566.030
- Rape in the second degree 566.031
- Statutory rape, first degree 566.032
- Statutory rape, second degree 566.034
- Sexual misconduct, first degree 566.093
- Sexual misconduct, second degree 566.095
- Sexual abuse, first degree 566.100
- Sexual abuse, second degree 566.101
- Sexual solicitation 566.103

SEXUAL HARASSMENT

- Harassment, first degree 565.090
- Harassment, second degree 565.091

STALKING

- Stalking, first degree 565.225
- Stalking, second degree 565.227