

Title IX: Sexual Harassment Complaint Procedures



Purpose

These procedures set forth the process for reporting and addressing Sexual Harassment reports and complaints.

Definitions

Complainant means an individual who is alleged to be the victim of prohibited conduct.

Respondent means an individual who has been reported to be the perpetrator of prohibited conduct.

Preponderance of the Evidence means the evidence shows that it is "more likely than not" that College policy was violated.

Grievance Process

This process sets out the grievance processes for Sexual Harassment, including rape, domestic violence, dating violence, sexual assault, stalking, as those terms are defined in the Sexual Harassment Policy and by state and federal law.

A. Duty to Report

Mandatory Report. All full-time employees shall have a duty to report any Sexual Harassment of which they become aware by or against a student or employee.

Permissive Report. All other individuals who have been subjected to Sexual Harassment by a student or employee or have direct knowledge of the occurrence of such conduct are encouraged to first inform the Respondent that the behavior is unwelcome and should cease. If the individual does not feel comfortable directly addressing the Respondent or if the prohibited conduct does not cease, a report may be filed as provided in this procedure.

B. Reporting Process

1. **Where to Report.** You are strongly urged to seek immediate assistance if you or someone you know may be the victim of any form of Sexual Harassment. Assistance can be obtained 24 hours a day, seven days a week, from local police.

You are also strongly urged to report any Sexual Harassment you believe may have occurred to the following individuals:

- Vice President for Student Affairs (Title IX Coordinator): Iola Campus Room A7, 620-901-6213, vpsa@allencc.edu
- Human Resources Specialist (Title IX Investigator, Employees): Iola Campus Room A29, 620-901-6299, hr@allencc.edu
- Director of Student Life (Title IX Investigator, Students): Iola Campus Room D4, 620-901-6270, studentlife@allencc.edu

Reports against a third party who is not a student or employee of the College concerning Sexual Harassment should be made to local law enforcement or by contacting the College's Title IX Coordinator.

Report events presenting an immediate threat to life or property to:

- Dial 911 or
 - Law Enforcement in the municipality where conduct occurred or where you reside.
2. Form of the Report. The initial report can be either written or verbal. Anyone with a mandatory duty to report shall promptly report directly to a Title IX Coordinator. To the extent possible, a reporter should include any information available regarding the specific description of the conduct, the party or parties involved, the location of the alleged incident, and the date(s) and circumstances under which the alleged conduct occurred.
 3. False or Malicious Reports. It shall be considered a violation of [College policy](#) for any individual to knowingly file a false or malicious complaint of Sexual Harassment.

Jurisdiction; Timing; Retaliation and Related Misconduct; Criminal Proceedings

A. Jurisdiction

The College will promptly respond under these procedure when it has actual knowledge of alleged Sexual Harassment allegedly caused by a student or employee. The College may choose to follow these procedures for incidents of sexual misconduct that do not meet the criteria for Title IX Sexual Harassment.

B. Timing and Availability of Procedures

Individuals are encouraged to report alleged Sexual Harassment immediately in order to maximize the College's ability to obtain evidence and conduct a thorough, impartial and reliable investigation. Failure to promptly report alleged Sexual Harassment may result in the loss of relevant evidence and witness testimony and may impair the College's ability to enforce these procedures.

Students and employees who make reports or complaints of Sexual Harassment, or participate in the investigation process, whether as parties to the proceedings or as witnesses, are expected to provide truthful testimony in accordance with the [College's policies](#) and operating procedures.

The intent of these procedures is to provide for prompt reporting and investigation of claims of Sexual Harassment. Due dates under these procedures shall be calculated based upon calendar days. If the due date specified falls on a weekend or holiday, the next business day will be the due date for the action.

While the College will make every attempt to comply with these deadlines, reasonable extensions based on the circumstances may be necessary and will be communicated to the parties in writing. Failure by the College to comply with the deadlines set forth herein will not invalidate a complaint, investigation or disciplinary action.

C. Retaliation

It is a violation of this policy to retaliate against any person making a report of Sexual Harassment or against any person cooperating in the investigation of any allegation of Sexual Harassment (including testimony as a witness). For these purposes, “retaliation” includes intimidation, threats, harassment and other adverse action threatened or taken against any such Complainant, Respondent, or third party. Retaliation should be reported promptly to a Title IX Coordinator and may result in disciplinary action independent of the sanction imposed in response to the Sexual Harassment allegations.

D. Effect of Criminal Proceedings

Because Sexual Harassment may constitute both a violation of College policy and criminal activity, the College encourages individuals to report alleged Sexual Harassment promptly to local law enforcement agencies. Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence. Because the standards for finding a violation of criminal law are different from the standards for finding a violation of this College policy, criminal investigations or reports are not determinative of whether Sexual Harassment, for purposes of these procedures, has occurred. Conduct may constitute Sexual Harassment under the College’s Policy and these procedures even if law enforcement agencies lack sufficient evidence of a crime and therefore decline to prosecute.

The filing of a report or complaint of Sexual Harassment under these procedures is independent of any criminal investigation or proceeding, and (except that the College’s Investigation may be delayed temporarily while the criminal investigators are gathering evidence) the College will not wait for the conclusion of any criminal investigation or proceedings to process a complaint under these procedures. Nothing in these procedures is intended to limit the authority of Allen Community College to take appropriate disciplinary action against any individual who violates College rules or policies.

Initial Process

A. Intake Meeting with Complainant

Upon receipt of a report of any allegation of Sexual Harassment, a Title IX Coordinator will first schedule an individual intake meeting with the Complainant in order to provide to the Complainant a general understanding of the Sexual Harassment Policy and Complaint Procedures as well as the option and process to file a formal complaint; to identify supportive measures available to the Complainant including, but not limited to, counseling, written rights and options document, altering schedules, extensions of deadlines, working with supervisor to adjust work load/objectives or any other action deemed as appropriate by the Title IX Coordinator (regardless of any decision to file a formal complaint); and to discuss at a high level how the allegation of Sexual Harassment could potentially be addressed at both the College level and as a criminal matter with local law enforcement.

B. Formal Complaint

1. **Form of Complaint.** The filing of a formal complaint of Sexual Harassment initiates the grievance process outlined in these procedures. A formal complaint may be filed by the Complainant in person, by mail, or by email and must include the Complainant's physical or digital signature. In some cases, a formal complaint may be filed by a Title IX Coordinator and therefore signed by the Title IX Coordinator, but the Title IX Coordinator is not otherwise a party to the grievance process. If the Complainant desires to remain anonymous, the Complainant should not file a formal complaint, because the College must disclose the name of the Complainant to the Respondent. The Complainant may withdraw the formal complaint at any step in this process.
2. **Notice.** Upon the filing of a formal complaint, the Title IX Coordinator will send written notice of the formal complaint to both parties, which will include the names of the Complainant and Respondent, if known; the date, location and nature of the alleged Sexual Harassment; statements that the Respondent is presumed not responsible and that determination of responsibility will be made at the conclusion of a grievance process; the rights of both parties to an advisor and to inspect and review evidence; that knowingly making false statements or submitting false information during the grievance process is a violation of College Policy; and that additional notice will be provided if any additional allegations arise during the process.

A. Intake Meeting with Respondent

The Title IX Coordinator will schedule an individual intake meeting with the Respondent in order to provide the Respondent a general understanding of the Sexual Harassment Policy and Complaint Procedures; to address and provide supportive measures equally available to the Respondent including, but not limited to, counseling, written rights and options document, altering schedules, extensions of deadlines, working with supervisor to adjust work load/objectives or any other action deemed as appropriate by the Title IX Coordinator; and to explain at a high level how the allegation of Sexual Harassment could potentially be addressed at both the College level and as a criminal matter with local law enforcement.

Investigation

Following the filing of a formal complaint, the Title IX Coordinator will appoint a trained individual to investigate the alleged Sexual Harassment, unless the parties elect to pursue Informal Resolution prior to such investigation. This Investigator will interview witnesses, summarize information learned from those involved, collect related documents and other evidence and submit summary findings to the Title IX Coordinator that are likely to be helpful in determining whether dismissal of the complaint is required or appropriate.

A. Investigator

The Investigator is a neutral fact-finder, who during the course of the Investigation, typically conducts interviews with the Complainant, the Respondent and third party witnesses (including fact and expert witnesses, as provided by the parties); visits and takes photographs at relevant sites; and, where

applicable, coordinates with law enforcement agencies to collect and preserve relevant documentation and other evidence.

B. Investigation Procedures

1. Submissions. The parties may provide the Investigator with a list of witnesses they propose to be interviewed, a list of relevant documents to be obtained, and a description of any other information they believe to be relevant to the Investigation on or before a date set by the Investigator. In the absence of good cause, as determined by the Investigator's sole discretion, the parties may not introduce witnesses, documents or other information after the deadline set by the Investigator.
2. Investigation. During the ongoing Investigation, each party may submit a written statement to the Investigator, with any documentation deemed relevant, or if the Investigator determines that unresolved issues exist that would be clarified by the submission of additional information, the Investigator may request such additional information be submitted. The Respondent and Complainant have the option not to provide a written statement; however, the exercise of this option will not preclude the Investigation from proceeding.
3. Investigative Report. The Investigator shall summarize the factual findings in a report, typically within sixty (60) days from receipt of the complaint, unless additional time is needed in which case the parties will be notified of the extension.

The Investigator will provide evidence directly related to the allegations upon the conclusion of the Investigation and the final investigative report to the Title IX Coordinator, both parties and any advisors. Each party will have ten (10) days to provide a written response, if desired.

C. Third Parties

Third parties may assist each party in the Investigation process, however, third parties may not participate other than to support and confer privately with the individual the third party is intended to support, unless they are witnesses in the Investigation.

Dismissal of Complaint

At any time during the Investigation or Resolution Process, the following Dismissal provisions apply.

A. Grounds for Dismissal

The Title IX Coordinator may dismiss a formal complaint if

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

B. Dismissal Procedures

Upon dismissal, the Title IX Coordinator shall promptly send written notice of dismissal and the reasons for the dismissal simultaneously to the parties, which shall be appealable as described in Appeals section, herein.

Resolution

The Title IX Coordinator must determine if the Complainant wishes to proceed through an Informal Resolution process, Formal Resolution process, or to withdraw the complaint, which may result in no resolution process of any kind.

A. Informal Resolution

Following the filing of a formal complaint, a party may request a less formal proceeding, known as Informal Resolution, except that Informal Resolution is not available to resolve allegations that an employee engaged in Sexual Harassment towards a student. Both parties must agree, voluntarily and in writing, to engage in informal resolution following written notice from the Title IX Coordinator describing the consequences resulting from participating in Informal Resolution, including the records that will be maintained or could be shared.

1. **Purpose.** Informal Resolution provides an opportunity for the Complainant and the Respondent to seek resolution informally and will provide an opportunity for the Complainant and Respondent to communicate their feelings and perceptions regarding the incident, the impact of the incident, and their wishes and expectations for the future.
2. **Informal Resolution Process.** If the parties agree to Informal Resolution, the Title IX Coordinator or designee will neutrally facilitate communication with the parties (either separately or together, as appropriate) to reach a mutually agreeable resolution, which will be memorialized in an Informal Resolution agreement, and the complaint will be resolved. The Informal Resolution agreement will generally be reached within sixty (60) days from initiation of the Informal Resolution process. If a mutually agreeable resolution between the Complainant and the Respondent cannot be reached, the complaint will proceed through Formal Resolution.
3. **Third Parties.** The Complainant and the Respondent each may bring a third party for support as the party participates in the Informal Resolution process; however, third parties may not participate other than to support and confer privately with the individual the third party is intended to support.
4. **Privacy of Informal Resolution.** In order to promote honest, direct communication, information disclosed during Informal Resolution will remain private while the Informal Resolution is pending, except where disclosure may be required by law or authorized in connection with duties on behalf of the College.

5. Conversion to Formal Resolution. The Complainant or Respondent may, at any time prior to the conclusion of Informal Resolution, elect to end such proceedings and initiate Formal Resolution instead.

B. Formal Resolution

Following the conclusion of the investigation, if not otherwise resolved or dismissed, the Title IX Coordinator shall appoint a Hearing Officer and schedule a live hearing on the matter, requiring the attendance of the Hearing Officer, Respondent, Complainant, the party's individual advisors, and witnesses. The Hearing Officer shall serve as the decision-maker.

1. Hearing Procedures. The hearing may be held in person or by video conferencing technology that allows the parties to see and hear each other in real time. If the hearing is held in person, either party may request that the parties be in separate rooms with technology enabling the parties to see and hear questioning in real time. An audio recording, audiovisual recording, or transcript will also be taken.

No opening or closing statements will be allowed. Each hearing shall consist of questioning of the witnesses by the hearing officer, followed by direct and cross examination of the witnesses by the parties. The Hearing Officer will set the time for direct and cross examinations of each witness, which shall be applied equally to both parties' witnesses. Advisors' only role during the hearing will be to convey their party's questions to witnesses following a ruling by the Hearing Officer on the relevancy of each proposed question. The Hearing Officer will provide an explanation of the ruling if a proposed question is not relevant. If relevant, the advisor may ask the question of a witness. The Hearing Officer may consider statements made by a party or witness that has not been subject to cross examination but will not draw an inference based on a party or witnesses' refusal to submit to cross examination.

2. Advisors. Each party may select an advisor for support during the Formal Resolution process. If a party does not have an advisor prior to any live hearing, the College will allow the party to select an advisor from a panel of College-provided advisors. If a party does not appear at a hearing, the College will appoint an advisor for such party. The advisor's only purpose is to ask questions in cross examination. As such, the advisor is not intended to have any specific legal knowledge and as such, shall have no expectation to provide substantive advice to the party. The College will maintain a panel of advisors, who will be available to provide support to either party at no cost. Under no circumstances will the College reimburse a party for the cost of an advisor from outside the panel.
3. Standard of Proof. Evidence of alleged Sexual Harassment will be evaluated under the "Preponderance of the Evidence" standard. In the context of a review of the Investigators' investigative report and witness testimony at the live hearing, the Respondent will only be found to be responsible for the alleged Sexual Harassment if the Hearing Officer concludes that such Sexual Harassment more likely than not occurred based upon careful review of all information presented.
4. Conversion to Informal Resolution. At any time during the Formal Resolution process, the Complainant or Respondent may request to convert to Informal Resolution, by making such request to the Title IX Coordinator prior to a Final Outcome. Both parties must agree, voluntarily and in writing.

5. **Final Outcome.** Following the conclusion of the live hearing and within no more than ten (10) days, the Hearing Officer will make a determination and prepare a Final Outcome Letter. The Final Outcome Letter shall be provided to both parties and must contain (1) findings of fact; (2) conclusion on whether the conduct occurred; (3) rationale for conclusion; (4) any disciplinary sanctions; and (5) any remedies for the Complainant.
6. **Sanctions.** Any student or employee found responsible for Sexual Harassment through this grievance process is subject to discipline in accordance with the [Student Conduct Code](#) or Employee Suspension or Dismissal Policy (Allen Board of Trustee Policies IV-B-1.2, IV-C-1.3, IV-D-1.4, IV-E-1.3, IV-F-1.2), as applicable. In determining an appropriate disciplinary action, any record of past violations of College policies and procedures, as well as the nature and severity of such past violation(s) may be taken into consideration. The purpose of the discipline will be to: a) bring an end to the violation in question, b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation on the Complainant and the College community. Any discipline imposed will be explained or supported in the Final Outcome Letter.

Appeals

A. Grounds for Appeal

Either party may petition to appeal the final determination regarding responsibility or dismissal of a formal complaint or any allegations therein only on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and (3) the Title IX Coordinator, Investigator, or Hearing Officer had a conflict of interest or bias for or against the Complainant or Respondent generally or the individual Complainant or Respondent that affected the outcome of the matter.

B. Appeals Process

Where grounds for appeal exist, the appealing party must submit an appeal (if a student) to the Office of the Vice President for Student Affairs, or (if an employee) to the Human Resources Office, in writing within ten (10) business days of the date the Final Outcome Letter or notice of dismissal is delivered to the parties. The notice of appeal must describe in detail the grounds for appeal. Either the Vice President or designee (the "Reviewing Officer") will be responsible for overseeing the review and making the final determination. Upon receipt of a valid appeal request, the Reviewing Officer will accept such appeal request, will put the non-appealing party on notice allowing the non-appealing party to submit a response directly related to the appeal notice and will review the notice of appeal and any additional documentation with respect to the procedural appeal prior to determining whether a procedure was appropriately followed. If the Reviewing Officer determines that the alleged basis for appeal affected the outcome, then the Reviewing Officer will put the parties on notice of such determination, will allow for such basis to be corrected as appropriate (which may include allowing for additional witness statements and/or documentation in certain circumstances). As applicable, the Reviewing Officer will then review the formal complaint, any investigative report, as well as supporting evidence, any hearing transcript or recording, and any notice of dismissal or Final Outcome Letter before making an initial ruling regarding the original complaint, which shall be limited to the Grounds of Appeal

described herein and issued within fourteen (14) business days of the date the appeal is submitted. If additional time is needed to complete this review, the Reviewing Officer shall notify the Complainant and the Respondent that the review has been delayed and indicate the reasons for the delay. The Reviewing Officer, if not the Vice President, shall provide the initial ruling to the Vice President with the Reviewing Officer's factual findings, and within thirty (30) days of the date of the appeal, the Vice President will make a final ruling/determination whether the dismissal or Final Outcome is supported by the evidence and if additional action is necessary. Decisions by the Vice President are final and not subject to appeal by either party.

C. Effective Date of Sanction

Sanctions imposed for Sexual Harassment are not effective until the resolution of any timely appeal of the decision.

Miscellaneous

A. College's Counsel

Title IX Coordinators and designees may seek advice from the College's legal counsel throughout the process on questions of law and procedure. The College's legal counsel will not make factual determinations under these procedures.

B. Privacy

Participants in the complaint resolution process should respect the matter as confidential. All information revealed and all discussions held shall be confidential within legal requirements and organizational responsibilities, as provided in accordance with College policies and procedures and applicable law.

C. Policy Training

Allen trains all College personnel selected to assist in the resolution process. Any Investigator or hearing officer selected from outside the College shall have demonstrated expertise in conducting such investigations.

D. Additional Information

Further information about Title IX and sex discrimination in education is available from the Office for Civil Rights, 400 Maryland Avenue, SW, Washington, DC 20202-1100 (by Customer Service Hotline: 800-421-3481; fax: 202-453-6012; TDD: 800-877-8339; email: OCR@ed.gov; or on the web at <http://www.ed.gov/ocr>).

For additional information about Sexual Harassment and resources available, please consult the Sexual Violence Prevention (Know What To Do) web page.