

SEXUAL MISCONDUCT INVESTIGATION AND HEARING PROCEDURES

Upon notice of an allegation of sexual misconduct the Title IX Coordinator or designee will contact the reporting party to offer support and arrange for an initial assessment meeting. During the initial assessment meeting, the Title IX Coordinator or designee will gather relevant facts about the incident(s), explain resolution options, and discuss available interim measures or accommodations. Depending on available information a formal investigation may be opened or remedial actions and interim measures taken without further investigation. If the Title IX Coordinator deems it necessary to conduct a formal investigation, a trained investigator will then be assigned to the case.

Once the matter is in the hands of the coordinating investigator, any actions, communications, meetings, or hearings will be considered part of the “proceedings” of the case. The coordinating investigator will conduct a fact-finding investigation with involved individuals or those who may have relevant information to share about the alleged incident(s). The responding party will be notified at least two calendar days prior to the date of any investigatory meeting or hearing, unless the coordinating investigator determines that extenuating circumstances require an earlier meeting or hearing date. This notice will include a general description of the alleged policy violation(s) and the time, date, and location of the meeting or hearing.

After conducting the investigation, the coordinating investigator will present the case file to the Title IX coordinator. The Title IX Coordinator will either make an administrative finding based on the evidence presented or convene the Student Conduct Committee to hold a hearing panel (during a panel hearing, the Title IX Coordinator oversees the proceedings). The college reserves the right to add or change administrators to the Student Conduct Committee at its discretion.

During any meetings or hearings, the college may separate the reporting party and the responding party, or any witnesses, from the other party in order to provide an orderly and emotionally safe environment for the proceedings. The reporting party and the responding party will have the right to have witnesses speak on their behalf to the coordinating investigator. If a panel hearing is held, witnesses or other individuals may be invited to speak to the panel during the hearing at the discretion of the Title IX Coordinator or panel.

The reporting party and the responding party have the right to have legal counsel with them during any portion of the investigation, including a hearing; however, individuals from outside the college community, including legal representation, will not be permitted to speak (other than giving private advice to their client) unless asked a direct question by the investigator, the Title IX Coordinator, or the hearing panel.

At its discretion, the college may impose immediate and temporary measures to protect any individuals involved during the time that the investigation and hearing is underway. In particular, the reporting party or the responding party may receive assistance through the assistant dean of students in changing academic schedules and on-campus living arrangements. Campus investigations and hearings conform to basic rules of fairness and are conducted by individuals who receive annual training on conducting such processes. A campus hearing is not a court trial. The main purpose of any investigation and hearing is to consider allegations and determine the likeliness of a policy violation through careful consideration of the evidence presented. The Title IX Coordinator or hearing panel will use a preponderance of the evidence standard (in other words, “more likely than not”) to determine whether the reporting party is or is not responsible for a policy violation.

In the absence of an involved party at a meeting or hearing, the hearing officer or panel will decide whether to continue without the missing individual present. Failure to attend a meeting or hearing may affect the outcome and the sanctions imposed. The responding party’s absence, without sufficient reason, may be grounds for disciplinary action as well.

A record of any meetings or hearings may be made either by audio or video recording at the discretion of the coordinating investigator or hearing panel. All persons present will be notified if a meeting is being recorded.

Both the reporting party and the responding party will be informed of the outcome (“result”) of any investigation and hearing, including the finding and any sanctions imposed that directly impact the reporting party, within a reasonable timeframe (typically within five working days) by e-mail sent to their CCAD e-mail addresses and/or by postal mail. Additionally, some faculty or staff members may be informed of the outcome if the information is necessary for the conduct of their responsibilities. Finally, CCAD reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status, or conduct situation.

As determined by the U.S. Department of Education, compliance with these provisions does not constitute a violation of section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA).

Sanctions that may be imposed on those found responsible for sexual misconduct include:

- Warning
- Probation
- Suspension
- Expulsion
- Required counseling, training, or education activities
- Withholding diploma
- Revocation of degree
- Termination of student employment
- Transcript notation
- Loss of organizational leadership role(s)
- Other actions

PROHIBITION AGAINST RETALIATION

Retaliation of any kind in response to an individual’s participation in the investigation or hearing is strictly prohibited and will result in an immediate response from the college, which may involve temporarily or permanently separating the responsible individual from the campus community. Any concerns about retaliation should be reported promptly to the Safety & Security Office or to the Title IX Coordinator.

RIGHT TO APPEAL

Both the reporting party and the responding party may appeal the initial findings and/or sanctions from a sexual misconduct resolution process. The appeal must be made in writing to the Title IX Coordinator within five business days of the date recorded on the notice of the findings, unless otherwise notified in the findings letter. Generally, findings and sanctions remain in effect during the appeal process.

The written appeal must be based on a factual disagreement surrounding the violation, a perceived violation of fundamental fairness or demonstration of bias, or the presentation of new evidence that was not available at the time the initial finding was made. In cases initially resolved by a hearing panel, appeal will be reviewed and decisions rendered by the Title IX Coordinator. In cases initially resolved by administrative hearing with the Title IX Coordinator, the appeal will be reviewed and decisions rendered by the Student Conduct Committee. The party that considers the appeal can make a direct decision on the appeal, convene a new hearing panel, or return the case back to an investigator for further

consideration. The decision of the Title IX Coordinator or Student Conduct Committee on an appeal is final.

REPORTING PARTY'S RIGHTS

When bringing forward an allegation of sexual misconduct and throughout the investigation and hearing process, the reporting party has the following rights:

- To decide whether or not they want to participate in any part of the investigation or hearing process, and to change that decision at any point in the process
- To decline the use of their name if a report must be made to a local law enforcement agency
- To be informed about any limits of confidentiality that may pertain to the allegation
- To be informed of their options of services available to them and any time limits associated with each option
- To request a change in their on-campus housing assignment or academic schedule if they feel unsafe
- To bring witnesses in person or to present witness statements during an investigation and/or hearing
- To have the advice of their own legal counsel (although legal counsel may not represent any individuals involved during the process or hearing)
- To be informed promptly about the outcome of the investigation and findings of the hearing panel or Title IX Coordinator
- To appeal the outcome of the initial finding

RESPONDING PARTY'S RIGHTS

When responding to a complaint of sexual misconduct and throughout the investigation and hearing process, respondents have the following rights:

- To decide whether or not they want to participate in any part of the investigation or hearing process, and to change that decision at any point
- To be clearly informed of the allegations made against them and to have an opportunity to respond
- To be informed about any limits of confidentiality that may pertain to the allegation
- To be informed of resources and services available to them and any time limits associated with each option
- To bring witnesses in person or to present witness statements during an investigation and/or hearing
- To have the advice of their own legal counsel (although legal counsel may not represent or speak on behalf of any individuals involved during the process or hearing)
- To be informed promptly about the outcome of the investigation and findings of the hearing panel or Title IX Coordinator
- To appeal the outcome of the initial finding

RESOURCES, OPTIONS, AND PROTECTIVE MEASURES FOR REPORTING PARTIES

There are numerous on-campus and off-campus resources available for those who have been the victim of sexual misconduct. On-campus resources include licensed mental health counselors in the Counseling and Wellness Center for counseling support, the Assistant Dean of Students' office for arranging accommodations that may be needed, and the Safety & Security office for seeking immediate help with safety concerns.

There are also professional resources available in the community. Victims or their advocates can contact the Sexual Assault Response Network of Central Ohio (SARNCO) at their 24-hour helpline, 614.267.7020, or the Rape, Abuse and Incest National Network (RAINN) helpline at 800.656.HOPE. SARNCO works with local law enforcement and social services agencies to provide medical evaluation, social support, and advocacy services to victims of sexual assault. Services include evaluation and treatment in local emergency departments, emotional support from volunteer advocates, a 24-hour rape helpline, referrals to aftercare counseling, and community outreach and prevention education. Those who are concerned about specific individuals who may pose a threat to their safety are also able to request a protection order through the Franklin County Clerk of Courts, which establishes legal restrictions on the ability of the individual to be in close proximity to the reporting party. Information about the types of protection orders and how to request them is available at www.franklincountyohio.gov/clerk/po.cfm.

A "no contact order" can also be requested through the Title IX Coordinator at CCAD, which does not have legal authority but would make any prohibited contact a violation of the Student Code of Conduct or college policy and subject to campus disciplinary action. The Assistant Dean of Students, or their designee, can also arrange for a temporary or permanent change of class schedule or residence hall assignment for victims of sexual misconduct when such measures are deemed appropriate. Additionally, the Director of Safety and Security at CCAD can arrange for security escorts or other protective services, as necessary and available.

STUDENT CONDUCT COMMITTEE ROLES AND RESPONSIBILITIES:

- Be familiar with laws, guidelines, and campus policies pertaining to sexual misconduct or gender discrimination involving students (particularly Title IX requirements).
- Determine if policies were violated and enforce the standards of our campus community.
- Ensure fair and equitable process was followed.
- Assess information carefully by considering the relevant facts, opinions, and circumstances.
- Uphold the standard of evidence. The college uses a "preponderance of the evidence" standard (i.e. is it more likely than not that a violation of policy occurred).
- Make finding(s) about whether someone is "responsible" or "not responsible" for the alleged policy violation.
- If responsible, make a sanctioning determination or recommendation.

TITLE IX COORDINATOR ROLES AND RESPONSIBILITIES:

- Ensure the college responds appropriately to allegations of sexual misconduct or gender discrimination involving CCAD students.
- Orchestrate investigation processes in a fair and impartial manner.
- Determine if a hearing is appropriate, and if so, the manner of the hearing.
- Select and prepare members for a hearing panel.
- Communicate with reporting party, responding party, and witnesses.
- Conduct a fair, equitable, and efficient hearing.
- Ensure Title IX requirements are followed.
- Assist the hearing board in gathering information, clarifying policies or processes, and conducting deliberations.

INVESTIGATOR ROLES AND RESPONSIBILITIES:

- Gather information in response to allegations.
- Report information and make recommendations to the Title IX Coordinator.
- Present findings to the hearing panel. Respond to questions and make recommendations as appropriate.

BEFORE THE HEARING:

- At least 5 days before the hearing, the reporting party and responding party should notify the Title IX Coordinator in writing if they intend to bring an attorney to the hearing.
- At least 48 hours before the hearing, the reporting party and responding party should provide the Title IX Coordinator with a written list of witness that they plan to bring to the hearing.
- At least 48 hours before the hearing, both the reporting party and responding party will be provided with written notes from the investigation. They should take time to read it thoroughly and prepare their responses.
- Both parties should gather any additional evidence not available to the investigators earlier and bring it to the hearing.

DURING THE HEARING:

- The hearing may be recorded by a video or audio device.
- The reporting party and the responding party will be permitted to have an attorney present if they so choose. However, attorneys can only consult privately with their clients. To comply with Title IX requirements of a fair and equitable process, and in support of an administrative hearing rather than a legal hearing, attorneys may not speak to anyone in the room other than their client, including the hearing panel, the other party, or any witnesses.
- The investigator(s) will present their findings to the hearing panel and respond to any initial questions they may have about the process.
- The reporting party will have the first opportunity, and the responding party will have the second opportunity, to respond to the findings and to present witnesses, if they so choose. Witnesses will be kept in a separate location and brought into the room only to give their testimony and respond to questions.
- The reporting party, responding party, and witnesses will not be allowed to directly question each other unless an exception is granted by the panel or the Title IX Coordinator. Questions or counterarguments should be directed to the hearing panel only.
- When the panel believes it has gathered enough information to move to deliberations, all participants will be asked to leave the room except for the panel members, investigator, and Title IX Coordinator. The Title IX Coordinator will remain in the room to ensure a fair deliberation process, to answer questions about the investigation from the panel, and to contact others if clarification is needed by the panel.

- The panel will arrive at a finding of “Responsible” or “Not Responsible” for the allegations presented. With a finding of “Responsible”, the panel may, if both the reporting party and responding party are students, issue sanctions and remedies. If the responding party is an employee, the panel will issue their findings and recommended sanctions to the Director of Human Resources and the employee’s supervising Vice President.

AFTER THE HEARING:

- The Title IX Coordinator will communicate the finding to both parties within a reasonable period of time (usually within 5 business days).

RIGHT TO APPEAL:

Both the reporting party and the responding party may appeal the initial findings and/or sanctions from a sexual misconduct resolution process. The appeal must be made in writing to the Title IX Coordinator within five business days of the date recorded on the notice of the findings, unless otherwise notified in the findings letter. Generally, findings and sanctions remain in effect during the appeal process.

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