



Procedure 123-01 Title IX Sex-Based Harassment

Sponsor: Student Services

Purpose

Coconino Community College is committed to providing an educational and employment environment that is free from sex discrimination, sex-based harassment, and retaliation for engaging in protected activity.

To ensure compliance with federal and state, and local laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, Coconino Community College has developed internal policies and procedures that provide for prompt, fair, and impartial resolutions of allegations of sex discrimination, sex-based harassment, or retaliation.

Definitions

Advisor means a person chosen by a party or appointed by the institution who may accompany the party to all meetings related to the Resolution Process and advise the party on that process. This individual may be a college employee, attorney, or member of the community.

Appeal Decision-maker means the person who accepts or denies a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s) accordingly.

Complainant means a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sex-based harassment, or retaliation under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct under the Policy and who was participating or attempting to participate in the Recipient's education program or activity at the time of the alleged sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct.

Complaint means an oral or written request to Coconino Community College that can objectively be understood as a request for the College to investigate and make a determination about the alleged Policy violation(s).

Confidential Employee means an employee whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies.

Day(s) means a business day when Coconino Community College is in normal operation.

Decision-maker means the person who reviews evidence, determines relevance, and makes the Final Determination of whether Policy has been violated and/or assigns sanctions. A decision-maker may be the Title IX Coordinator or investigator as long as there is no bias or conflict of interest.

Education program or activity means locations, events, or circumstances where Coconino Community College exercises substantial control over both the Respondent and the context in which the sex discrimination, sex-based harassment, retaliation or Other Prohibited Conduct occurs and also includes any building owned or controlled by a student organization that is officially recognized by Coconino Community College.

Employee means a person employed by Coconino Community College either full- or part-time, including student employees when acting within the scope of their employment.

Final Determination means a conclusion by preponderance of the evidence that the alleged conduct did or did not violate Policy.

Finding means a conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”).

Formal Hearing Process means a method of formal resolution designated by Coconino Community College to address conduct that falls within the policies included below, and which complies with the requirements of 34 CFR Part 106.45 and 106.46.

Hearing Decision-maker means a person who has decision-making and sanctioning authority within Coconino Community College’s Formal Hearing process.

Informal Resolution. A resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a Final Determination in the Resolution Process.

Investigator means the person or persons charged by Coconino Community College with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report. An Investigator may be the Title IX Coordinator.

Knowledge means when Coconino Community College receives Notice of conduct that reasonably may constitute sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct in its Education Program or Activity.

Mandated (Mandatory) Reporter means an employee of Coconino Community College who is obligated by policy to share Knowledge, Notice and/or reports of sex discrimination, sex-based harassment, retaliation, or Other Prohibited with the Title IX Coordinator. Mandatory Reporter under this policy does not diminish the requirement under Arizona state law to report alleged or suspected child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporter responsibility in this Policy.

Notice means when an employee, student, or third party informs the Title IX Coordinator of the alleged occurrence of sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct.

Parties include the Complainant(s) and Respondent(s), collectively.

Pregnancy or Related Conditions means Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.

Promptness means the time period in which allegations are acted upon once Coconino Community College has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but Coconino Community College will avoid all undue delays within its control.

Remedies means measures provided, as appropriate, to a Complainant or any other person Coconino Community College identifies as having had their equal access to the College's education program or activity limited or denied by sex discrimination,

Resolution Process means the investigation and/or the resolution of allegations of prohibited conduct under this Policy, including Informal Resolution and Formal Hearing Resolution.

Resolution Process Pool means any Investigators, Advisors, Informal Resolution Facilitator, Hearing Facilitator, Decision-maker, Appeal Decision-maker who may perform any or all of these roles (though not at the same time or with respect to the same case).

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.

Sanction means a consequence imposed on a Respondent who is found to have violated this policy.

Sex means sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Sex-Based Harassment means a form of discrimination on the basis of sex, including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, and sexual violence, including sexual assault, dating violence, domestic violence and stalking.

Title IX Coordinator is at least one official designated by Coconino Community College to ensure compliance with Title IX and Coconino Community College's Title IX program. References to the coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

Title IX Team refers to the Title IX Coordinator, any Deputy Title IX Coordinators, and any member of the Resolution Process Pool.

Notice of Nondiscrimination

Coconino Community College does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of actual or perceived sex.

This Policy covers sex discrimination in both employment and access to educational opportunities. Therefore, any member of the Coconino Community College community whose acts deny, deprive, unreasonably interfere with or limit the education or employment, residential and/or social access, benefits, and/or opportunities of any member of the Coconino Community College community, guest, or visitor on the basis of that person's actual or perceived sex, is in violation of this Policy.

Coconino Community College will promptly and effectively address any such discrimination of which it has Knowledge/Notice using the resolution process in the Sex Discrimination, Sex-Based Harassment, and Retaliation Procedures.

Title IX Coordinator

Coconino Community College has a designated Title IX Coordinator who oversees implementation of this policy and related grievance and resolution procedures. The Title IX Coordinator has the primary responsibility for coordinating Coconino Community College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

Coconino Community College's Title IX Coordinator may be reached as follows:

Tony Williams
VP of Students Services & Title IX Coordinator
2800 S. Lone Tree Road
Flagstaff, AZ 86005
Phone: 928-226-4334
Email: Tony.Williams@coconino.edu
<https://www.coconino.edu/title-ix>

The College Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Vice President of Human Resources at 928-776-2128. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer the reporting form located on the following College webpage: <https://www.coconino.edu/title-ix> or contact the Title IX Coordinator at 928-226-4334.

External Contact Information

Inquiries about Title IX may be referred to Coconino Community College's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both. The Office of Civil Rights may be reached as follows:

Office for Civil Rights,
Denver Office
U.S. Department of Education

Cesar E. Chavez Memorial Building
1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582
Telephone: (303) 844-5695
Facsimile: (303) 844-4303
Email 1: OCR.Denver@ed.gov
Email 2: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Mandated Reporting

All Coconino Community College faculty and employees (including student-employees), other than those deemed Confidential Employees, are Mandated Reporters and are expected to promptly report all known details of actual or suspected sex discrimination, sex-based harassment, retaliation, and/or Other Prohibited Conduct to appropriate officials immediately, although there are some limited exceptions. Supportive measures may be offered as the result of such disclosures without formal Coconino Community College action. Complainants may want to carefully consider whether they share personally identifiable details with Mandated Reporters, as those details must be shared with the Title IX Coordinator.

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

Confidential Employees and Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with individuals unaffiliated with Coconino Community College without concern that Policy will require them to disclose information to the college without permission:

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

Failure of a Mandated Reporter, as described above in this section, to report an incident of sex discrimination, sex-based harassment, or retaliation of which they become aware is a violation of Coconino Community College Policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations when a harasser is a Mandated Reporter. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under this Policy. A Mandated Reporter who is themselves a target of discrimination, harassment, or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

Scope

This Policy is only applicable to alleged incidents that occur on or after August 1, 2024. For alleged incidents of sex discrimination or sexual harassment occurring prior to August 1, 2024, the policy and

procedures in place at the time of the alleged incident apply. Applicable versions of those policies and procedures are available from the Title IX Coordinator as well as on the College Title IX Website at <https://www.coconino.edu/title-ix>.

This Policy prohibits all forms of sex discrimination and applies to all faculty, employees, students, and other individuals participating in or attempting to participate in the Coconino Community College's program or activities, including education and employment.

Jurisdiction

This Policy applies to the Coconino Community College's education programs and activities (defined as including locations, events, or circumstances in which the Coconino Community College exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where the Coconino Community College has disciplinary authority, and to misconduct occurring within any building owned or controlled by recognized student organization. This Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to Coconino Community College's education program or activities.

For disciplinary action to be issued under this Policy, the Respondent must be a Coconino Community College student, faculty member or employee at the time of the alleged incident. If the Respondent is unknown or is not a member of the Coconino Community College community, the Title IX Coordinator will offer to assist the Complainant in identifying appropriate institutional and local resources and support options and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). Coconino Community College can also assist in contacting campus security or local law enforcement if the individual would like to file a police report about criminal conduct.

When a party is participating in a dual enrollment or early college program, Coconino Community College will coordinate with the party's home institution to determine jurisdiction and coordinate providing supportive measures and responding to the complaint under the appropriate policy and procedures based on the allegations and identities of the Parties.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences sex discrimination or sex-based harassment in an externship, or other environment external to the Coconino Community College where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be addressed remedially by the Title IX Coordinator if brought to their attention. For additional information regarding Coconino Community College Jurisdiction over Title IX matters, please see the Jurisdiction Procedures information at <https://www.coconino.edu/title-ix>.

Supportive Measures

Coconino Community College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sex discrimination, sex-based harassment, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to Coconino Community College's education program or activity, including measures designed to protect the safety of all parties, Coconino Community College's educational environment, and/or deter sexual harassment and/or retaliation.

The Title IX Coordinator shall make supportive measures available to the parties upon receiving Notice/Knowledge or a complaint. At the time that supportive measures are offered, if a Complaint has not been filed, the Title IX Coordinator will inform the Complainant, in writing, that they may file a Complaint with the Coconino Community College either at that time or in the future. The Title IX Coordinator will work with a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures. Coconino Community College will maintain the confidentiality of the supportive measures, provided that maintaining confidentiality does not impair Coconino Community College's ability to provide the supportive measures. Coconino Community College will act to ensure as minimal an academic or occupational impact on the parties as possible. Coconino Community College will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Student financial aid counseling
- Altering work arrangements for employees or student-employees
- Altering campus housing assignments.
- Safety planning
- Providing campus safety escorts
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass orders, when applicable
- Timely warnings under the Clery Act
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders, or other restrictions will be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing Complaint under this Policy.

The Parties are provided with a timely opportunity to seek modification or reversal of Coconino Community College's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Title IX Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the Title IX regulatory definition of supportive measures. Coconino Community College will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances materially change. Coconino Community College typically renders decisions on supportive measures within seven (7) business days of receiving a request and provides a written determination to the impacted party(ies).

Online Harassment and Misconduct

Coconino Community College policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on Coconino Community College's education program and activities or use Coconino Community College networks, technology, or equipment.

Although Coconino Community College may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to Coconino Community College, it will engage in a variety of means to address and mitigate the effects. These means may include use of the Resolution Process to address off-campus conduct whose effects contribute to limiting or denying a person access to Coconino Community College's education program or activity.

Nothing in this Policy is intended to infringe upon or limit a person's right to free speech. Any online posting or other electronic communication by students, including technology-facilitated bullying, stalking, harassment, etc., occurring completely outside of the College's control (e.g., not on Coconino Community College networks, websites, or between Coconino Community College email accounts) will only be subject to this Policy when such online conduct can be shown to cause (or will likely cause) a substantial in-program disruption, infringement or harm to the rights of others. Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided.

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

Inclusion Related to Gender Identity/Expression

Coconino Community College strives to ensure that all individuals are safe, included, and respected in their education and employment environments, regardless of their gender identity or expression. Discrimination and harassment on the basis of gender identity or expression are not tolerated by Coconino Community College. If a member of the Coconino Community College community believes they have been subjected to discrimination under this Policy, they should follow the appropriate reporting process described herein.

In upholding the principles of equity and inclusion, Coconino Community College supports the full integration and healthy development of those who are gender diverse and seeks to eliminate any stigma related to gender identity and expression.

Coconino Community College uses a number of interventions to address concerns that are raised related to gender-based harassment or discrimination, including problem-solving, intervention, confrontation, investigation, and Policy enforcement. When conflicts arise between the right of members of the community to be free from gender-identity discrimination and those exercising their right to religious freedom, the Coconino Community College will try to balance rights and interests to find mutually agreeable outcomes or compromises. When that is not possible, Coconino Community College will offer remedial solutions or enforce its Policies while also respecting the rights of all members of its community.

Inclusion Related to Pregnancy

Title IX prohibits discrimination based on sex in educational programs, which includes protections for students and employees based on pregnancy, childbirth, termination of pregnancy, miscarriage, childbirth and recovery. As a result, a pregnant or parenting student or employee during a postpartum period after delivery, may be provided adjustments so they are able to access and participate in their educational program or activity. Reasonable modifications are available through the college Title IX Coordinator (or their designees) for students and through Human Resources for employees.

Possible adjustments may include:

- Breaks during class or exams
- Extra time on exams or assignments
- Adjusted deadlines or excused absences due to pregnancy, childbirth or related conditions.
- Providing alternatives to make up missed work
- Reasonable break time for lactation
- Access to lactation rooms on campus

For additional information regarding Pregnancy and Related Parenting Conditions, please see the Pregnancy and Parenting FAQ information at <https://www.coconino.edu/title-ix>.

Reports/Complaints of Sex Discrimination, Sex-Based Harassment, and/or Retaliation

I. How to Report or File a Complaint

A Report provides notice to the College of an allegation or concern about sex discrimination, sex-based harassment, or retaliation and provides an opportunity for the Title IX Coordinator to provide information, resources, and supportive measures. A Complaint provides notice to the College that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide at a later time to make a Complaint. Reports or Complaints of sex discrimination, sex-based harassment, and/or retaliation may be made using any of the following options:

1. File a complaint with or give verbal notice to the Title IX Coordinator. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address listed for the Title IX Coordinator or any other member of the Title IX Team. This information can be found on the Coconino Community College website at <https://www.coconino.edu/title-ix>.
2. Report online, using the reporting form posted at [Online Reporting Form](#). Anonymous reports are accepted, but can give rise to a need to investigate. Coconino Community College tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Since anonymous reporting carries no obligation to initiate a formal response and since Coconino Community College respects a Complainant's requests to dismiss complaints, unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy.

Reporting carries no obligation to initiate a Complaint, and in most situations, Coconino Community College is able to respect a Complainant's request to not initiate a resolution process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where Coconino Community College may need to initiate a resolution process. If a Complainant does not wish to file a Complaint, Coconino Community College will maintain

the privacy of information to the extent possible. The Complainant should not fear a loss of confidentiality by giving Notice that allows the College to discuss and/or provide supportive measures, in most circumstances.

II. Time Limits on Reporting

There is no time limitation on providing Notice/Complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the Coconino Community College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

Acting on Notice/Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the Title IX Coordinator's discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

III. False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process can be subject to discipline under appropriate Coconino Community College policies.

Privacy/Confidentiality

Every effort is made by Coconino Community College to preserve the Parties' privacy under this policy.

For additional information regarding privacy and confidentiality under this policy, please see Privacy and Confidentiality Procedures information at <https://www.coconino.edu/title-ix>.

Emergency Removal

Coconino Community College can act to remove a student Respondent accused of sex discrimination, sex-based harassment, or retaliation, entirely or partially from its education program/activities or District employment on an emergency basis when an individualized safety and risk analysis has determined that an imminent and serious threat to the health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator and may be done in conjunction with the college Behavioral Intervention Team (also known as the CARE Team) using its standard objective violence risk assessment procedures. Employees are subject to existing procedures for interim actions and leaves.

For additional information regarding Emergency Removals, please see the Emergency Removal information at <https://www.coconino.edu/title-ix>.

Federal Timely Warning Obligations

Coconino Community College must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the College community.

Coconino Community College will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

Amnesty

Coconino Community College community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to give Notice to Coconino Community College officials or participate in a resolution process because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

To encourage reporting and participation in the process, Coconino Community College maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident. Granting amnesty is a discretionary decision made by the Coconino Community College, and amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty to a Respondent is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

Coconino Community College maintains a policy of amnesty for students who offer help to others in need. While policy violations cannot be overlooked, Coconino Community College may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.

Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- a. All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b. Hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- c. Violence Against Women Act (VAWA-based crimes), which include sexual assault, domestic violence, dating violence, and stalking; and
- d. Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include presidents, vice-presidents, student affairs/student conduct staff, campus law enforcement/public safety/security, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

Prohibited Conduct

Students and employees are entitled to an educational and employment environment that is free of sex discrimination, sex-based harassment, and retaliation. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited sex discrimination, sex-based harassment, and retaliation that are also prohibited under Coconino Community College Policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of Coconino Community College Policy, though supportive measures will be offered to those impacted.

All offense definitions below encompass actual and/or attempted offenses.

Any of the following offenses can be charged as or combined as pattern offenses, in which case the Notice of Investigation and Allegation (NOIA) will clearly indicate that both individual incidents and a pattern of conduct are being investigated. A pattern may exist and be charged when there is a potential substantial similarity to incidents where the proof of one could make it more likely that the other(s) occurred, and vice versa. Patterns may exist based on target selection, similarity of offense, or other factors. Where a pattern is found, it can be the basis to enhance sanctions, accordingly.

I. Sex Discrimination

Sex discrimination is different treatment with respect to a person's employment or participation in an education program or activity based, in whole or in part, upon the person's actual or perceived sex.

Discrimination can take two primary forms:

1. Disparate Treatment Discrimination:

- Any intentional differential treatment of a person or persons that is based on a person's actual or perceived sex and that:
 - Excludes a person from participation in;
 - Denies a person benefits of; or
 - Otherwise adversely affects a term or condition of a person's participation in a Coconino Community College program or activity.

2. Disparate Impact Discrimination:

- Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on the basis of sex that:
 - Excludes a person from participation in;
 - Denies a person benefits of; or
 - Otherwise adversely affects a term or condition of a person's participation in a Coconino Community College program or activity.

II. Sex-Based Harassment

Sex-based Harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex,¹ including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and agender identity, which satisfies one of more of the following:

1. Quid Pro Quo:

- an employee, agent, or other person authorized by the College,
- to provide an aid, benefit, or service under the Coconino Community College's education program or activity,
- explicitly or impliedly conditioning the provision of such aid, benefit, or service,
- on a person's participation in unwelcome sexual conduct.

2. Hostile Environment Harassment:

- unwelcome sex-based conduct, that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from the Coconino Community College's education program or activity

III. Specific Sex-Based Offenses

The specific sex-based offenses identified in this section are further defined in the [Clery Act Crimes Definitions](#). These Specific Sex-Based Offenses include: 1) Sexual Assault; 2) Dating Violence; 3) Domestic Violence; and Stalking.

IV. Other Prohibited Conduct

1. Failure to Comply/Process Interference

- Intentional failure to comply with the reasonable directives of Title IX Coordinator in the performance of their official duties, including with the terms of a no contact order
- Intentional failure to comply with emergency removal or interim suspension terms
- Intentional failure to comply with sanctions
- Intentional failure to adhere to the terms of an Informal Resolution agreement
- Intentional failure to comply with mandated reporting duties as defined in this Policy
- Intentional interference with the Resolution Process, including, but not limited to:
 - Destruction of or concealing of evidence
 - Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence
 - Intimidating or bribing a witness or party

2. Retaliation

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Coconino Community College is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

¹ Throughout this Policy, "on the basis of sex" means conduct that is sexual in nature, or that is directed to the Complainant because of his/her/their actual or perceived sex or gender identity.

It is prohibited for Coconino Community College or any member of Coconino Community College's community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

V. Force, Coercion, Consent, and Incapacitation

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

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

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

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Consent is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on Coconino Community College to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

Revisions of this Policy

This Policy succeeds previous policies addressing sex discrimination, sex-based harassment, sexual misconduct, and/or retaliation, though previous policies and procedures remain in force for sexual harassment incidents occurring before August 1, 2024. The Title IX Coordinator reviews and updates these policies and procedures regularly. The Coconino Community College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect. If government laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally.

This Policy is effective August 1, 2024

Procedure

1. *Procedural Overview for Alleged Violations of Title IX Operational Policy*

Coconino Community College will act on any formal or informal notice/complaint of potential violation of this Title IX policy (“the Policy”) that is received by the Title IX Coordinator or any other Mandated Reporter by applying these procedures.

The procedures below apply **only** to qualifying allegations of discrimination on the basis of sex, sex-based harassment, retaliation, or Other Prohibited Conduct involving students, employees, or third parties as defined by Title IX.

2. *Notice/Complaint*

Upon receipt of Notice of an alleged Policy violation, the Title IX Coordinator will initiate a prompt initial evaluation to determine next steps. The Title IX Coordinator will contact the Complainant to offer

supportive measures, provide information regarding resolution options, and determine how the Complainant would like to proceed.

3. Initial Evaluation

Following receipt of Notice of an alleged violation of this Policy, the Title IX Coordinator (or designee) will engage in an initial evaluation, which is typically one (1) to five (5) business days in duration. The initial evaluation typically includes:

- Assessing whether the reported conduct may reasonably constitute a violation of the Policy.
 - If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provisions in these procedures. It may then be referred to another process, if applicable.
- Determining whether Coconino Community College has jurisdiction over the reported conduct, as defined in the Policy.
 - If the conduct is not within Coconino Community College's jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures.
- Offering and coordinating supportive measures for the Complainant.
- Offering and coordinating supportive measures for the Respondent, as applicable.
- Notifying the Complainant, or the person who reported the allegation(s), of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Formal Hearing Process described below.
- Determining whether the Complainant wishes to initiate a Complaint.
- Notifying the Respondent of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Hearing Resolution Process described below, if a Complaint is made.

4. Helping a Complainant to Understand Resolution Options

If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting intent to make a Complaint), the Title IX Coordinator will help to facilitate the Complaint, which will include working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options:

- a supportive and remedial response, and/or
- Informal Resolution, or
- Formal Hearing Resolution

The Title IX Coordinator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.

5. Title IX Coordinator Authority to Initiate a Complaint

If the Complainant does not wish to file a Complaint, the Title IX Coordinator, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures and determine whether to initiate a Complaint themselves. To make this determination, the Title IX Coordinator will evaluate that request to determine if there is a serious and imminent threat to someone's safety or if the College cannot ensure equal access without initiating a Complaint.

6. *Dismissal*

Coconino Community College **may** dismiss a Complaint if, at any time during the investigation or Resolution Process, one or more of the following grounds are met:

1. The College is unable to identify the Respondent after taking reasonable steps to do so
2. The College no longer enrolls or employs the Respondent
3. A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Title IX Coordinator declines to initiate a Complaint
4. The College determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven

In addition to other members of the Title IX Team, a Decision-maker can recommend dismissal to the Title IX Coordinator if they believe the grounds are met. A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.

Upon any dismissal, Title IX Coordinator will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, the Title IX Coordinator will also notify the Respondent of the dismissal. This dismissal decision is appealable by any party.

7. *Appeal of Dismissal*

The Complainant may appeal a dismissal of their Complaint. The Respondent may also appeal the dismissal of the Complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal.

The Title IX Coordinator will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the Complaint, the Title IX Coordinator must then provide the Respondent with a [Notice of Investigation and Allegation \(NOIA\)](#) and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

Throughout the dismissal appeal process, Coconino Community College will:

1. Implement dismissal appeal procedures equally for the Parties.
2. Assign a trained Dismissal Appeal Decision-maker who did not take part in an investigation of the allegations or dismissal of the Complaint.
3. Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal.
4. Notify the Parties of the result of the appeal and the rationale for the result.

The grounds for dismissal appeals are limited to:

1. Procedural irregularity that would change the outcome.
2. New evidence that would change the outcome and that was not reasonably available when the dismissal was decided.
3. The Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

The appeal request should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. Upon receipt of a written dismissal appeal request from

one or more Parties, the Title IX Coordinator will share the appeal request with all other Parties and provide three (3) business days for other Parties and the Title IX Coordinator to respond to the request. At the conclusion of the response period, the Title IX Coordinator will forward the appeal, as well as any response provided by the other Parties and/or the Title IX Coordinator to the Dismissal Appeal Decision-maker for consideration.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the Dismissal Appeal Officer will deny the request, and the Parties, their Advisors (if any), and the Title IX Coordinator will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the Dismissal Appeal Decision-maker will notify all Parties and their Advisors (if any), and the Title IX Coordinator, of their decision and rationale in writing. The effect will be to reinstate the Complaint. In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Decision-maker has ten (10) business days to review and decide on the appeal, though extensions can be granted at the Title IX Coordinator's discretion, and the Parties will be notified of any extension. Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so.

The Dismissal Appeal Decision-maker may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale for clarification, if needed. The Title IX Coordinator will maintain documentation of all such consultation.

8. Emergency Removal of a Student

Coconino Community College may emergency remove a student accused of Sex Discrimination, Sex-based Harassment, or Other Prohibited Conduct upon receipt of Notice/Knowledge, a Complaint, or at any time during the Resolution Process. Prior to an emergency removal, Coconino Community College will conduct an individualized risk assessment and may remove the student if that assessment determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies such action.

When an emergency removal is imposed, wholly or partially, the affected student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal within three (3) business days of the notification. Upon receipt of a challenge, the Title IX Coordinator will meet with the student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate, should be modified, or lifted. When this meeting is not requested within three (3) business days, objections to the emergency removal will be deemed waived. A student can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable for them to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Title IX Coordinator for review. An emergency removal may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Title IX Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

9. Placing an Employee on Leave

When the Respondent is an employee, or a student employee accused of misconduct in the course of their employment, existing procedures managed by Human Resources for interim action(s) may be applicable instead of the above emergency removal process.

10. Counterclaims

Coconino Community College is obligated to ensure that the resolution process is not abused for retaliatory purposes. Coconino Community College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims made with retaliatory intent will not be permitted and may constitute a violation of this policy.

Counterclaims determined to have been reported in good faith will be processed using the Resolution Process below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur. Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator.

11. Advisors in the Resolution Process

The parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews, and hearings within the Resolution Process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.

The Title IX Coordinator will offer to assign a trained Advisor to the Parties. If the Parties choose an Advisor from the pool available from Coconino Community College, the Advisor will be trained by Coconino Community College and be familiar with Coconino Community College's resolution process. If the parties choose an Advisor from outside the pool of those identified by Coconino Community College, the Advisor may not have been trained by Coconino Community College and may not be familiar with Coconino Community College policies and procedures. Parties also have the right to choose not to have an Advisor during any stage of the Resolution Process.

For more information regarding using an Advisor in the Resolution Process and the training provided to Advisors, please see the Advisors FAQ at <https://www.coconino.edu/title-ix>.

12. Resolution Options Overview

This Resolution Process may consist of an **Informal Resolution** or a **Formal Hearing Resolution**. The process considers the Parties' preferences, but is ultimately determined at the Title IX Coordinator's discretion. Resolution proceedings are confidential. All individuals present at any time during the Resolution Process are expected to maintain the confidentiality of the proceedings in accordance with this policy.

13. Notice of Investigation and Allegations (NOIA)

Before initiation of the Resolution Process, Coconino Community College will provide the Parties with a [Notice of Investigation and Allegation \(NOIA\)](#). The NOIA will be delivered to the Parties' Coconino Community College email and typically includes:

- A meaningful summary of all allegations
- The identity of the involved Parties (if known)
- The misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- The process to notify the Title IX Coordinator of any conflict of interest by a Resolution Process Pool member in advance of the interview process
- A statement that Coconino Community College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence
- A statement that retaliation is prohibited
- Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share Coconino Community College work product obtained through the Resolution Process
- A statement that the Parties may have an Advisor of their choice who may accompany them through all steps of the Resolution Process
- A statement informing the Parties that Coconino Community College's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how a party may request disability accommodations or other support assistance during the Resolution Process
- An instruction to preserve any evidence that is related to the allegations

14. Resolution Timeline

Coconino Community College will make a good faith effort to complete the Resolution Process within sixty to ninety (60-90) business days, including any appeals, which the Title IX Coordinator can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, Coconino Community College reserves the right to continue it without their participation to ensure a

prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

Coconino Community College may undertake a short delay in its investigation (several weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. The College will promptly resume its Resolution Process as soon as feasible. During such a delay, Coconino Community College will implement and maintain supportive measures for the Parties as deemed appropriate.

Coconino Community College action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

15. Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process, including the Title IX Coordinator, Investigator(s), and Decision-maker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Resolution Pool member will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Vice President of Human Resources.

The Resolution Process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, including evidence that supports that the Respondent engaged in a Policy violation and evidence that supports that the Respondent did not engage in a Policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence.

16. Informal Resolution

Informal Resolution can include four different approaches:

- a. **Informal Resolution Agreement.** When the parties agree to resolve the matter by entering into an Informal Resolution Agreement (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, and mutually agreed upon terms and conditions etc.);
- b. **Accepted Responsibility.** When the Respondent accepts responsibility for violating policy, and is willing to agree to actions that will be enforced similarly to sanctions, and the Complainant and Title IX Coordinator are agreeable to the resolution terms;
- c. **Supportive Measures.** When the Title IX Coordinator can resolve the matter informally by providing supportive measures designed to remedy the situation;
- d. **Educational Conversation.** When the Title IX Coordinator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations or can accompany the Complainant in their desire to confront the conduct.

To initiate an Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator at any time prior to a final determination, or the Title IX Coordinator may offer the option to the parties, in writing. Coconino Community College will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding. The written confirmation by the Parties will include an acknowledgement that any party has the right to withdraw from the Informal Resolution process and to initiate or resume the Colleges Hearing Process. It will also advise the Parties that upon achieving a mutually satisfactory resolution at the conclusion of the Informal Resolution process, the matter will be considered resolved and neither party may re-initiate or resume the formal hearing resolution process arising from the same allegation(s) described in the NOIA.

17. Resolution Process Pool

The Resolution Process relies on a pool of administrators (“the Pool”) to carry out the process.²

a. Pool Member Roles

Members of the Pool are trained annually, and can serve in the following roles, at the discretion of the Administrator:

- Appropriate intake of and initial guidance pertaining to Complaints
- Advisor to Parties
- Informal Resolution Facilitator
- Perform or assist with initial evaluation
- Investigator
- Hearing Facilitator
- Decision-maker for challenges to emergency removal and supportive measures
- Decision-maker
- Appeal of Dismissal Decision-maker
- Appeal of Outcome Decision-maker

b. Pool Member Appointment

The Title IX Coordinator, in consultation with senior administration, appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different Complaints, Coconino Community College can also designate permanent roles for individuals in the Pool.

c. Training for Pool Members

The Formal Hearing Process relies on a pool of administrators (“the Pool”) to carry out the process. Members of the Pool are published on the College Title IX webpage located at <https://www.coconino.edu/title-ix>.

18. The Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary. Campus Safety may assist a Title IX investigation with the collection and storage of relevant evidence.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and

² External, trained third-party neutral professionals may also be used to serve in Pool roles.

questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

19. Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of Coconino Community College are expected to cooperate with and participate in Coconino Community College's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

While in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Zoom, or similar technologies may be used for interviews if the Investigator(s) determines that timeliness or efficiency dictate a need for remote interviewing. Coconino Community College will take appropriate steps to reasonably ensure the security/privacy of remote interviews. Witnesses may also provide written statements in addition to being interviewed.

20. Interview Recording

No audio or video recording of any kind is permitted during investigation meetings, except for recordings initiated by Coconino Community College. It is standard practice for Investigators to create records of all interviews pertaining to the Resolution Process. The Parties may review copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

21. Evidentiary Considerations in the Investigation

The Investigator(s) and the Decision-maker(s) will only consider evidence that is deemed relevant and not otherwise impermissible. Relevant Evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of Policy.

Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or 2) is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent.

The fact of prior consensual sexual conduct occurred between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that sex-based harassment occurred.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

22. Respondent Admits Responsibility

At any point in the Resolution Process, if a Respondent elects to admit to the charged violations and waive further process, the Decision-maker is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. This would waive the Respondent's right to appeal. If the Respondent rejects the finding/final determination/sanctions, or does not admit to all

conduct charged, the Resolution Process continues to its conclusion. The Complainant retains their right to appeal a determination when a Respondent admits responsibility.

23. Investigation

All investigations involve interviewing all relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

Coconino Community College may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

24. Referral for Formal Hearing

Provided that the Complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation, when the final investigation report is made available to the Parties and the Decision-maker for review and comment, unless all parties and the Decision-maker agree to an expedited timeline. This agreement must be in writing.

25. Hearing Decision-maker

Coconino Community College will designate a single Decision-maker. The single Decision-maker will also Chair the hearing. The Decision-maker will not have had any previous involvement with the investigation. Coconino Community College will either select a Decision-maker who is a member of Coconino Community College's Resolution Pool or may out-source this position to someone who has professional training as a Title IX Decision-maker and had no previous involvement in the matter at hand.

26. Withdrawal or Resignation Before Complaint Resolution

a. Students

Should a student Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from Coconino Community College, the Resolution Process may continue, or the Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, College will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged sex discrimination, sex-based harassment, and/or retaliation.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, the College will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sex discrimination, sex-based harassment, and/or retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to the College in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Title IX Coordinator has the discretion to dismiss the Complaint. The Registrar and HR (for student employees) may be notified, accordingly.

If the student Respondent takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely. If found in violation, that student is not permitted to return to College unless and until all sanctions, if any, have been satisfied.

b. Employees

Should an employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an employee Respondent leaves their employment with the College with unresolved allegations pending, the Resolution Process may continue, or the Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, the College may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged sex discrimination, sex-based harassment, and/or retaliation.

When an employee resigns and the Complaint is dismissed, the employee may not return to the College in any capacity. The Registrar and HR will be notified, accordingly, and a note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with the College. The records retained by the Title IX Coordinator will reflect that status.

27. Formal Hearing Resolution Process

a. Live Hearing Requirements

The following provisions apply to a live hearing:

- **Hearing Venue Options and Recordings.** The live hearing may occur in person or via video technology. The Decision-maker and Parties must be able to simultaneously see and hear a party or witness while that person is speaking. Both options are considered fair and equitable. Alternative arrangements may also be made at the Title IX Coordinator's discretion.
 - The Parties may make a request to the Title IX Coordinator that the hearing be held in person or via video technology, but they must do so at least three (3) business days prior to the hearing. The Title IX Coordinator retains discretion to determine whether the hearing will occur in person or via video technology.
 - All hearings will be recorded, and Parties may request a copy of the recording from the Title IX Coordinator following the live hearing.
 - No unauthorized recordings are permitted.
- **Scheduling.** Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to meet the College's resolution timeline and ensure a prompt resolution. Employees, including Parties and witnesses, who do not have 12-month contracts are still expected to participate in Resolution Processes that occur during months between contracts.
- **Hearing Participants.** Persons who may be present for a hearing include the Decision-maker, Hearing Facilitator, Investigator(s), the Parties and their Advisors, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Decision-maker. Witnesses are present only during their portion of the testimony.

- *Advisors.* The Parties may have the assistance of an Advisor of their choosing at the hearing or can request that the College appoint a trained Advisor for them. Appointed Advisors are not attorneys. If a party wishes to have an attorney as their Advisor, they must locate and pay for that attorney themselves.
 - During the pre-hearing meeting and live hearing, Parties may only be accompanied by their Advisor. No other persons (e.g., additional support persons, advisors, friends, family) may accompany, attend, or listen in on the pre-hearing meeting or live hearing unless explicitly authorized by the Title IX Coordinator, with each party being provided the same opportunity.
 - Parties and Advisors are permitted to have their phones and a laptop or tablet, but these should only be used during the hearing in a matter consistent with Policy.
 - All questions during the hearing will be asked by the Decision-maker. Parties and Advisors may suggest questions to be posed by the Decision-maker during the pre-hearing meetings or by submission of written questions during the hearing. The method of submitting questions to the Decision-maker will be specified by the Decision-maker during the pre-hearing meetings.
- *Impact Statements.* Each party may submit an impact and/or mitigation statement to the Title IX Coordinator that the Decision-maker will review during any sanction determination.
 - Upon receipt of an impact and/or mitigation statement, the Title IX Coordinator will review the impact/mitigation statement to determine whether any immediate needs exist.
 - The Title IX Coordinator will only provide the impact statements to the Decision-maker if the Decision-maker determines that the Policy has been violated. When the Title IX Coordinator shares the impact statements with the Decision-maker, they will also be shared with the Parties.
- *Disability Accommodations and Other Assistance.* Parties should contact the Title IX Coordinator at least five (5) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.
- *Conflicts of Interest or Bias.* The Decision-maker must not have a bias for or against complainants or respondents generally or the individual Complainant or Respondent in particular.
 - The Decision-maker must recuse themselves if such bias or conflict of interest exists.
 - If the Decision-maker believes there is possible conflict of interest or bias, they will consult with the Title IX Coordinator about possible recusal or removal.
 - The Parties may raise challenges that the Decision-maker is biased or has a conflict of interest. The Parties must raise challenges with the Title IX Coordinator within three (3) business days of receiving the hearing notice.
 - The Title IX Coordinator will only remove and replace a Decision-maker in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.
 - If a Decision-maker recuses themselves as the result of a conflict of interest or bias, or is removed, the Title IX Coordinator will promptly appoint a new Decision-maker who does not have a conflict of interest or bias and notify the Parties accordingly.

- *Evidence Provided to Decision-maker and Parties.*
 - The Decision-maker will be provided electronic copies of the Final Investigation Report and all relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisors, at least seven (7) business days in advance of the hearing.
 - The Parties will be provided with electronic copies of all the materials provided to the Decision-maker as part of the hearing notice unless those materials have already been provided.³

b. Hearing Notice

The Title IX Coordinator will send the Parties a notice of hearing with sufficient time for the Parties to prepare for the hearing, typically at least seven (7) business days prior to the hearing. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The hearing notice includes:

1. A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
2. The time, date, and location of the hearing.
3. A description of any technology that will be used to facilitate the hearing.
4. Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the Parties and witnesses participating in the hearing, the identity of the Decision-maker, details related to questioning, the role of Advisors (if requested by the Parties), impact/mitigation statements (if any exist), and how to request disability accommodations or other assistance.

c. Witness Participation

Student witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. Employee witnesses are expected to participate in, and make themselves reasonably available for, the hearing. Witnesses may also participate by providing a written and signed Witness Statement. If Witnesses participate in-person or via video technology, the Decision-maker and the Parties must be able to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an advisor without the Title IX Coordinator's express permission. At the discretion of the Decision-maker, a witness may join by phone if no other reasonable alternative is available.

The Title IX Coordinator will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony. If any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Title IX Coordinator may reschedule the hearing.

d. Pre-Hearing Meetings

The Decision-maker will offer to convene a pre-hearing meeting(s) with the Parties and their Advisors and invite them to submit the questions or topics they wish to ask or discuss at the hearing. This allows

³ Hard-copy materials may be provided upon request to the Title IX Coordinator. The Final Investigation Report and relevant evidence may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

the Decision-maker to consider their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Parties from submitting a question at the hearing for the first time or asking for a reconsideration on a Decision-maker's pre-hearing decision based on any new information or testimony offered at the hearing. The Decision-maker will document and share their rationale for any evidence or question exclusion or inclusion, if any, at a pre-hearing meeting with each party.

The Decision-maker will work with the Parties to finalize a witness list for the hearing, and the Title IX Coordinator will notify any witnesses of the hearing's logistics.

Pre-hearing meeting(s) will not be recorded. The pre-hearing meetings will typically be conducted as separate meetings with each party/Advisor, and can be done remotely, or as a written communication exchange. The Decision-maker will work with the Parties to establish the format and timing of the meetings and will circulate a summary of any rulings made to ensure all Parties and Advisors are aware.

e. Hearing Procedures

- *Evidentiary Considerations*

The Parties must provide all evidence to the Investigator(s) prior to completing the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed relevant and not impermissible, the Parties and Decision-maker must agree to admit it into the record. If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing absent the new evidence.

The new relevant evidence will be admitted to the record if:

- All Parties and the Decision-maker assent to the new evidence being included in the hearing without remanding the Complaint back to the Investigator, and
- The evidence is not duplicative of evidence already in the record, and
- It is not impermissible, and
- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing.
- Provide the Parties with at least five (5) business days to review the relevant evidence.
- Remand the Complaint back to the Investigator for further investigation or analysis.
- Allow the Parties to review and comment on the new evidence.

If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing without allowing the new evidence.

- *Collateral Misconduct*

The Decision-maker has the authority to hear and make determinations on all allegations of sex discrimination, sex-based harassment, retaliation, and Other Prohibited Conduct under the Policy and may also hear and make determinations on any additional alleged collateral misconduct that occurred in concert with the sex discrimination, sex-based harassment,

retaliation, or Other Prohibited Conduct, even though those collateral allegations may not specifically fall within the Policy.

- *Joint Hearings*

In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Complaint with respect to each alleged Policy violation.

- *Introductions and Hearing Procedure Explanation*

The Decision-maker will explain the hearing procedures and introduce the participants. The Decision-maker will answer any procedural questions prior to and as they arise throughout the hearing.

- *Investigator Presentation of Final Investigation Report*

The Investigator(s) will present a summary of the Final Investigation Report, including a review of the facts that are contested and those that are not. The Investigator may be questioned first by the Decision-maker and then by the Parties. The Investigator may attend the duration of the hearing or be excused after their testimony at the Decision-maker's discretion.

- *Testimony and Questioning*

The Parties and witnesses may provide relevant information in turn, beginning with the Complainant's opening statement, then the Respondent's, and then questioning in the order determined by the Decision-maker. The Decision-maker will facilitate questioning of the Parties and witnesses.

All questions must be directed toward and asked through the Decision-maker and are subject to a relevance determination before they are asked. The Decision-maker will determine the method by which the Parties will submit their questions to the Decision-maker for their review and, if approved, to be posed. Questions that the Parties wish to have posed can be questions for that party themselves, another party, or witnesses. The Decision-maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-maker will limit or disallow questions they deem not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive. The Decision-maker has final say on all questions and determinations of relevance and appropriateness. The Decision-maker may consult with legal counsel on any questions of admissibility. The Decision-maker then poses the questions deemed relevant, not impermissible, and appropriate to the party and/or witness.

- *Refusal to Submit to Questioning and Inferences*

Any party or student witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. Employee witnesses are required to participate in the hearing if they are reasonably available. The Decision-maker can only rely on the available relevant and not impermissible evidence in making the ultimate determination of responsibility. The Decision-maker may not draw any inference **solely** from a party's or witness's absence from the hearing or refusal to answer any or all questions.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared.

- *Hearing Recordings*

Coconino Community College records hearings (but not deliberations) for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

The Decision-maker, the Parties, their Advisors, Appeal Decision-makers, and other appropriate College officials will be permitted to review the recording or review a transcript of the recording upon request to the Title IX Coordinator. No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

- *Deliberation, Determination and Standard of Proof*

After closing statements from the Parties, the Decision-maker will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the standard of proof. The preponderance of the evidence standard of proof is used. When there is a finding of responsibility for one or more of the allegations, the Decision-maker may then consider any previously submitted impact and/or mitigation statement(s) provided by the Parties in determining appropriate sanction(s). The Title IX Coordinator will ensure that any submitted statements are exchanged between the Parties if they are viewed by the Decision-maker. Impact/mitigation statements do not influence the finding, they only potentially influence the sanctions.

The Decision-maker will then prepare and provide the Title IX Coordinator with a written outcome letter detailing all findings and final determinations, the rationale(s) explaining the decision(s), the relevant and not impermissible evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s).

The Outcome Letter is typically submitted to the Title IX Coordinator within ten (10) business days from the conclusion of the hearing unless the Title IX Coordinator grants an extension. The Title IX Coordinator will notify the Parties of any extension.

- *Notice of Outcome*

Upon receiving the outcome letter from the Decision-maker, the Title IX Coordinator will promptly and simultaneously, or without significant time delay between notifications, provide a written outcome notification to the Parties. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official Recipient records, or emailed to the Parties' Coconino Community College-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

The outcome notification will specify the finding for each alleged Policy violation, all applicable sanctions that Coconino Community College is permitted to share pursuant to state or federal law, and a detailed rationale, written by the Decision-maker, supporting the findings to the extent Coconino Community College is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, and when the determination is considered final if no party appeals.

28. Sanctions

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

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- Any other information deemed relevant by the Decision-maker

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

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

a. Student Sanctions

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any Coconino Community College policy, procedure, or directive will result in more severe sanctions/responsive actions. Terms of the warning may include no-contact orders, and/or other measures deemed appropriate.
- *Required Counseling:* A mandate to meet with and engage in external counseling to better comprehend the misconduct and its effects.
- *Probation:* A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or student organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Eviction from Campus Housing:* A mandate that the student is required to move out of the residence halls within a specified period of time (the "Effective Date"). Terms of the eviction will be articulated and will include a no trespass notification stating that upon the Effective Date, the student is prohibited from returning to the residence halls and its surrounding areas.
- *Deferred Eviction from Campus Housing:* In certain circumstances, a deferral of an eviction may be imposed, and will include a written reprimand for policy violation(s), providing for more severe disciplinary sanctions in the event that the student is found in violation of any institutional policy, procedure, or directive within a specified period of time. A deferred eviction may also include denial of specified social privileges, exclusion

from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate. *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at Coconino Community College.

- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend Coconino Community College-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript.
- *Withholding Diploma*: Coconino Community College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: Coconino Community College reserves the right to revoke a degree previously awarded from Coconino Community College for fraud, misrepresentation, and/or other violation of Coconino Community College, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including Coconino Community College registration) for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, Coconino Community College may assign any other sanctions as deemed appropriate.

b. Employee Sanctions

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

- *Warning – Verbal or Written*
- *Performance Improvement/Management Process*
- *Enhanced Supervision, Observation or Review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*
- *Loss of Oversight or Supervisory Responsibility*
- *Transfer*
- *Shift or schedule adjustments*
- *Reassignment*
- *Delay of (or referral for delay of) Tenure Track Progress*
- *Assignment to a New Supervisor*
- *Demotion*
- *Suspension/Administrative Leave with pay*
- *Suspension/Administrative Leave without pay*
- *Termination*
- *Other Actions*: In addition to or in place of the above sanctions, Coconino Community College may assign any other sanctions as deemed appropriate.

29. *Withdrawal or Resignation While Charges Pending*

a. Students

If a student has an allegation pending for violation of the Title IX policy, Coconino Community College may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from Coconino Community College, the resolution process ends, as Coconino Community College no longer has disciplinary jurisdiction over the withdrawn student. A student who withdraws or leaves while the process is pending may not return to Coconino Community College. Such exclusion applies to all campuses of Coconino Community College. A hold will be placed on their ability to be readmitted. They may also be barred from Coconino Community College property and/or events.

However, Coconino Community College will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. During the resolution process, Coconino Community College may put a hold on a responding student's transcript or place a notation on a responding student's transcript that a disciplinary matter is pending.

b. Employees

Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as Coconino Community College no longer has disciplinary jurisdiction over the resigned employee. The employee who resigns with unresolved allegations pending is not eligible for rehire with Coconino Community College or any campus of Coconino Community College, and the records retained by the Title IX Coordinator will reflect that status.

However, Coconino Community College will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination. All Coconino Community College responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

30. *Appeals*

The Title IX Coordinator will designate an Appeal Decision-maker who is an individual chosen from the Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker(s) will have been previously involved in the Resolution Process for the Complaint, including in any supportive measure challenge or dismissal appeal that may have been decided earlier in the process.

a. Request for Appeal

Any party may submit a written request for appeal ("Request for Appeal") to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome. The Request for Appeal will be forwarded to the Appeal Decision-maker to determine if the request meets the grounds for appeal (a Review for Standing).

b. Grounds for Appeal

Appeals are limited to the following grounds:

- i. Procedural irregularity that affected the outcome of the matter;
- ii. 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
- iii. The Title IX Coordinator, Investigators, or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Decision-maker and the parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-maker will notify all Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that Request for Appeal will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties and their Advisors will be notified accordingly, in writing.

No party may submit any new Requests for Appeal after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will render a decision within ten (10) business days.

c. Appeal Determination Process

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. Appeal decisions are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made applying the preponderance of the evidence standard of proof. An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Decision-maker merely because they disagree with the finding and/or sanction(s).

The Appeal Decision-maker may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Title IX Coordinator will maintain documentation of all such consultation.

d. Appeal Outcome

Once an appeal is decided, the Appeal Decision-maker's determination(s) should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-maker or the Title IX Coordinator (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new determination with new Pool members serving in the Investigator and Decision-maker roles.

A Notice of Appeal Outcome letter ("Appeal Outcome") will be sent to all Parties simultaneously, or without significant time delay between notifications. The Appeal Outcome will specify the finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result which the College is permitted to share according to federal or state law, and the rationale supporting the essential findings to the extent the College is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official institutional records, or emailed to the Parties' Coconino Community College-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, the Appeal Outcome will be considered delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding, or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.

If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the three (3) available appeal grounds.

e. Sanction Status During the Appeal

Any sanctions imposed as a result of the Hearing Decision-maker's determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made. Coconino Community College may still maintain emergency removals (detailed above), place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

31. Long-Term Remedies/Other Actions

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program

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

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

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

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

32. Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions and/or Informal Resolution terms within the timeframe specified by the final Decision-maker, including the Appeal Decision-maker or the Informal Resolution agreement.

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

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator. Supervisors are expected to enforce the completion of corrective actions or sanctions for their employees.

33. Recordkeeping

For a period of at least seven (7) years following the conclusion of the Resolution Process, Coconino Community College will maintain records of:

- Each sex discrimination, sex-based harassment, and retaliation resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation.
- Any disciplinary sanctions imposed on the Respondent.
- Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to Coconino Community College's education program or activity.
- Any appeal and the result therefrom.
- Any Informal Resolution and the result therefrom.
- All materials used to provide training to the Title IX Coordinator, Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitators, and any person who is responsible for implementing the College's Resolution

Process, or who has the authority to modify or terminate supportive measures. Coconino Community College will make these training materials available for review upon request.

- g. All materials used to train all employees consistent with the requirements in the Title IX Regulations.

34. Disabilities Accommodations in the Resolution Process

Coconino Community College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to Coconino Community College's resolution process. Anyone needing such accommodation should contact the Title IX Coordinator for assistance.

35. Revision of these Procedures

These procedures succeed any previous procedures addressing sex discrimination, sex-based or sexual harassment, and retaliation for incidents occurring on or after August 1, 2024. The Title IX Coordinator will regularly review and update these procedures. Coconino Community College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If governing laws or regulations change, or court decisions alter, the requirements in a way that impacts this document, this document will be construed to comply with the most recent governing laws, regulations, or court holdings. This document does not create legally enforceable protections beyond the protections of the background federal and state laws that frame such policies and codes, generally.

THESE POLICIES AND PROCEDURES ARE BASED ON THE 2024 ATIXA TITLE IX MODEL POLICY AND PROCEDURES (AMPP). ©2024 ATIXA. USED WITH PERMISSION.

References

U.S. Department of Education regulations applicable to Title IX 2024 Final Rule

Procedure History

| | |
|------------|--|
| 8/1/2024 | New and required by law so was not approved by Cabinet |
| 07/16/2025 | Revised Sponsor from Student Affairs to Student Services |

Legal Review

| | |
|-------------|--|
| August 2024 | (Reviewed by the Trust Legal Counsel, via Yavapai College) |
|-------------|--|