

# **Complaint/Grievance Procedure –Sexual Misconduct and Interpersonal Violence**

## **Introduction:**

Title IX of the Education Amendments of 1972 prohibits sex discrimination—which includes sexual misconduct—in educational programs and activities. All public and private schools, school districts, colleges and universities receiving federal funds must comply with Title IX. It is the policy of this College to prohibit all forms of sex discrimination. Additionally, it is the policy of this College to prohibit all instances of domestic violence, dating violence, and/or stalking.

When an allegation of sexual misconduct, domestic violence, dating violence, or stalking is brought to the College’s attention, a prompt investigation will be performed. Please see the College’s Sexual Misconduct policy for more detailed information related to filing a complaint and a possible resulting investigation. Upon conclusion of the investigation, a report will be prepared and submitted to the Title IX Coordinator. In the event that the Title IX Coordinator has reasonable grounds to believe that a violation of this policy has occurred, the Title IX Coordinator will issue a written notice of violation to the accused and provide a copy of that notice to the complainant. Any notice of violation will also include a recommendation regarding disciplinary measures. In the event that the Title IX Coordinator does not have reasonable grounds to believe that a violation has occurred, the Title IX Coordinator will notify both the complainant and the accused student in writing of that finding.

If either party feels aggrieved by the findings, he or she may challenge those findings through this grievance procedure.

If a notice of violation has been issued, and the accused fails to challenge the notice of violation by submitting a written grievance response within the requisite time period, the notice of violation will be submitted to the Provost for a final decision regarding discipline.

## **Grievance and Adjudication Procedure:**

**Step 1:** All grievances shall be written and submitted to the Title IX Coordinator within ten (10) days of the date the grievant receives the above-described notice from the Title IX Coordinator. All written grievances shall include the following: (1) the name, addresses, and phone number of the grievant; (2) a detailed description of the circumstances surrounding the grievance; and (3) the specific relief the grievance is requesting through the grievance procedure. The Title IX Coordinator will promptly provide a copy of the grievance to the other involved individual(s), hereafter referred to as the respondent(s). The respondent may submit a written response to the grievance to the Title IX Coordinator within 10 days of receipt of the grievance.

If the grievant or respondent believes that the Title IX Coordinator has a conflict of interest or bias, the grievant or respondent shall identify his or her reasons for that belief in writing and submit that writing within 3 business days of the filing of the grievance. If it is determined that the Title IX Coordinator has a conflict of interest or bias, the Title IX Coordinator will be recused from the grievance process and a non-involved noninvolved member of the senior administration will perform all duties assigned to the Title IX Coordinator.

**Step 2:** After receipt of the grievance, the Title IX Coordinator will contact the grievant and the respondent within five (5) business days to schedule separate pre-hearing meetings. Pre-hearing meetings are not mandatory. These pre-hearing meetings are designed to allow the grievant and/or the respondent to ask questions regarding the grievance and adjudication procedure as well as review any investigatory report. Both the grievant and the respondent are permitted to be accompanied by an advisor during the pre-hearing meeting. The advisor should not be someone who may be considered a witness to the incident at issue.

**Step 3:** After the pre-hearing meetings (or after the parties decline the pre-hearing meetings), the Title IX Coordinator will submit the grievance and the respondent's response, if any, to a Grievance Committee. The Grievance Committee will consist of three (3) College faculty members or administrators randomly chosen from a defined pool. If either party is a faculty member or administrator, no faculty member or administrator from that party's same department will be chosen to be on the Grievance Committee. Each of the faculty members in the defined pool receives annual training on issues related to sexual harassment, sexual assault, domestic violence, dating violence, and stalking and on the College's grievance and adjudication process. The grievant and the respondent will be promptly notified of the Grievance Committee's composition.

If either party believes that a member of the Grievance Committee has a conflict of interest or bias, that party shall identify his or her reasons for that belief in writing and submit that to the Title IX Coordinator within three (3) business days of notification of the Grievance Committee's composition. If the Title IX Coordinator determines that a member(s) of the Grievance Committee has a conflict of interest or bias, that member(s) of the Grievance Committee will be replaced by a different faculty member(s) from the defined pool. That process will continue with the newly identified member(s) until the Grievance Committee is finalized.

**Step 4:** After the Grievance Committee is finalized, the Title IX Coordinator will notify the grievant and the respondent of the date, time, and location of the grievance hearing. The parties will receive at least ten (10) days' notice of the hearing. Prior to the Grievance Committee hearing, the Grievance Committee will be provided a copy of any investigatory report. The parties will also be provided a copy of the investigatory report, but without copies of sensitive documents such as medical records. Note that the parties have an opportunity to review the full investigatory report in the pre-hearing meeting.

Both the grievant and the respondent are permitted to present relevant witnesses and evidence at the hearing. Each party must identify in writing to the Title IX Coordinator the witnesses and/or evidence he or she intends to present at the hearing no later than seven (7) days prior to the hearing. The College prefers the use of live witnesses, but if a witness is unavailable to participate in a live proceeding, a signed, written statement may be submitted for the witness. If a signed, written statement is submitted for a witness, it must be provided to the Title IX Coordinator no later than seven (7) days prior to the hearing.

The Title IX Coordinator will promptly provide each party with the other party's list of identified witnesses, evidence, and/or signed, written statement(s).

**Step 5.** Grievance hearings are closed to the public. Both the grievant and the respondent are permitted have an advisor present. However, that advisor is not permitted to participate as a vocal advocate during the hearing. The investigators shall be present at the Grievance Committee Hearing.

At the hearing, each party will be permitted to give an opening statement. Each party will then be permitted to present evidence and/or witnesses. A party will permitted to ask questions of the other party and/or the other party's witnesses, but the questions must be first submitted to the Grievance Committee. The Grievance Committee will then ask the questions on the party's behalf. The Grievance Committee retains discretion to refrain from asking questions it believes are irrelevant or unnecessary and/or exclude presentation of any witnesses or evidence. For example, information about a party's prior sexual history with persons other than the other party will typically be excluded. Each party will also be permitted to make a closing statement.

The College will accommodate requests from either the grievant or the respondent to not be present in the same room during the grievance hearing.

Official minutes of the hearing will be kept. The official minutes will be made available to either party.

**Step 6:** Within fourteen (14) days of the conclusion of the grievance hearing, the Grievance Committee will issue a written decision. The Grievance Committee will use a preponderance of the evidence (i.e., "more likely than not") standard to determine whether or not an alleged violation occurred. The Grievance Committee will also issue a recommendation on the discipline, if applicable. If the Grievance Committee is not unanimous in its findings or recommended discipline, its written decision shall record that fact.

The Title IX Coordinator will promptly provide written notice to both the grievant and the respondent of the Grievance Committee's decision. The Title IX Coordinator will also

notify the parties of their right to appeal the decision and, if applicable, the sanctions or disciplinary measures to be imposed.

**Step 7:** After the Title IX Coordinator notifies the parties of the Grievance Committee's decision, either party will have ten (10) days to submit a written appeal of the Grievance Committee's decision to the Provost. The possible bases for appeal include: (1) a procedural error that has significantly impacted the outcome of the hearing; (2) the introduction of previously unavailable relevant evidence which would have significantly impacted the outcome of the hearing; or (3) where a sanction is substantially disproportionate to the Grievance Committee's findings.

If either party chooses to appeal, the other party will have ten (10) days to submit a written opposition to the appeal to the Provost. Upon receipt of the written opposition or the passing of the timeframe allowed to submit a written opposition, the Provost will promptly issue a written decision affirming the Grievance Committee's decision; reversing the Grievance Committee's decision; or remanding the grievance back to the Grievance Committee to consider additional evidence or remedy a procedural error. If the Provost remands the Grievance Committee's decision, the Provost may order that a new Grievance Committee hear the matter. The Provost's decision will be issued in writing to both parties.

A decision will be considered final if no party submits a timely appeal of a Grievance Committee's decision or if the Provost affirms or reverses the Grievance Committee's decision. Any sanctions or discipline imposed will be stayed until the resolution of the appeal process.

All of the time frames above may be extended by a showing of good cause. All parties involved will be promptly notified if a time extension has been granted.

A student is not required to file a grievance with the College and, if applicable, may file a complaint with federal or state agencies such as:

- The U.S. Department of Education's Office for Civil Rights ("OCR")
  - Chicago Office (for Cincinnati campus): (312) 886-8434
  - San Francisco Office (for Los Angeles campus): (415) 556-4275
  - New York City Office (for NY campus): (212) 637-6466
- The Ohio Civil Rights Commission ("OCRC"), Cincinnati Regional Office: (513) 852-3344
- The State of California Department of Fair Employment and Housing ("DFEH"): (800) 884-1684 (toll free for complaints and information)

- The New York City Equal Employment Practices Commission: (212) 240-7902
- The New York State Human Rights Commission on Discrimination Complaints: (212) 306-7450

In the event that the College finds that any student has been a victim of discrimination or harassment relating to his or her sex, any form of sexual misconduct, domestic violence, dating violence, or stalking, the College will take immediate measures to remediate and/or correct the conduct or circumstances. Any individual who is subjected to such conduct will be notified of the College's measures to remediate and/or correct such conduct.

The College prohibits retaliation against anyone who files a grievance under this section or otherwise complains that he or she has been a victim of discrimination or harassment relating to his or her sex, any form of sexual misconduct, domestic violence, dating violence, or stalking. This prohibition of retaliation similarly extends to anyone who has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing relating to a grievance or complaint under this section.

All documents, witness statements, evidence, and written submissions associated with a grievance under this section will be confidentially maintained, to the extent permitted by law, in the student's disciplinary record. Any request by a student to review the documents, witness statements, evidence, and written submissions associated with his or her grievance under this policy should be submitted to the Title IX Coordinator.

The notifications required by this policy will not constitute a violation of section 444 of the General Education Provisions Act (20 U.S.C. § 1232g), commonly known as the Family Education Rights and Privacy Act of 1974 (FERPA).

### **Transcript Notations (NY Campus Only)**

As per New York Education Law, Article 129-B, HUC-JIR will include notations on the transcripts of students found responsible through the institution's conduct process for conduct which also constitutes those crimes set forth in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII) of the Clery Act. Such transcript notations will state "suspended after the finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation," as applicable. Should the student withdraw from HUC-JIR while the investigation of the complaint is pending, his or her transcript must note "withdrew with conduct charges pending." Should a student wish to appeal such a transcript notation, they may do so by writing to the Provost within ten (10) days of the outcome of a hearing. The Provost's decision may be appealed to HUC-JIR's President within ten (10) days of the Provost's decision.