



## American Career College Title IX Policy Governing Students and Associates

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In accordance with the guidance provided by the Department of Education on January 31, 2025, this policy is applied to all complaints filed on or after January 31, 2025.

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## INTRODUCTION AND SCOPE

American Career College and (“ACC” or “the Institution”) is committed to maintaining a respectful and professional academic and working environment for students and associates, including faculty. This includes having an environment free from unlawful sex discrimination, including sex-based harassment, referred to in this policy as “prohibited conduct”. This Title IX Policy applies to all settings and activities where the educational program sponsored by the institution occur, whether on individual campus properties owned or controlled by ACC or off campus while a person is participating in an education program or activity of the Institution. The Title IX policy also applies to activity that takes place on ACC sponsored devices, internet networks or digital platforms operated or used by ACC in its operations.

This policy governs all persons who have a relationship with ACC that enables the Institution to exercise some control over the individual’s conduct in places and activities that relate to the Institution’s work. While any person may report an incident of prohibited conduct. Complaints of sex discrimination that do not constitute harassment but fall under Title IX, will be resolved using the [Student Complaint Procedure](#).

Prohibited conduct, as described in this policy, includes sexual harassment. These forms of discrimination are prohibited by Title IX of the Education Amendments of 1972. Sexual assault, domestic violence, dating violence and stalking also are prohibited conduct under Title IX, and are additionally defined by the Jeanne Clery Campus Safety Act (“Clery Act”), as amended by the Violence Against Women Reauthorization Act of 2013. ACC is committed to helping the campus community provide for their own safety and security. Information on campus security and personal safety, including alerts, crime prevention tips and crimes statistics may be found [here](#).

The purpose of this policy is to affirm the Institution’s commitment to prohibit discrimination on the basis of sex<sup>1</sup> through the following efforts: 1) explicitly prohibiting discrimination and harassment based on sex; 2) identifying and defining prohibited conduct; 3) outlining the procedures complainants should follow, including how and to whom to report; 4) providing a fair and impartial resolution process; and 5) identifying on and off-campus resources and supportive measures available regardless of whether a formal complaint is filed.

ACC also complies with other regulatory and legal requirements including state laws and other federal law, such as Title VII. ACC has a General Non-Discrimination Policy published in its [online catalog](#), which may apply to other types of discrimination and harassment not covered by the Title IX policy. Incidents that fall outside the scope of this policy, such as discrimination or harassment not on the basis of sex, will be resolved using the student referral to conduct procedure or the Student Complaint Procedure, depending on the nature of the incident.

## TITLE IX NON-DISCRIMINATION POLICY & NOTICE OF NON-DISCRIMINATION

All members of the educational community must be able to work and learn in an atmosphere of mutual respect and trust. The Institution strives to build a community in which each person respects the rights of other people to be proud of who and what they are; to live, work, and learn in peace and with dignity; and to have an equal prospect for realizing their full potential as individuals and members of society. This includes having

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<sup>1</sup> In accordance with the guidance issued by the Department of Education, Office for Civil Rights on January 31, 2025, under Title IX the term “sex” is defined only to include either male or female.

an environment that is free from all forms of discrimination for everyone in the educational community, including students, associates, volunteers, applicants, and members of the public. The Institution will take appropriate action to prevent prohibited conduct and will take appropriate action with respect to any person who is found to have engaged in such behavior and over whom the Institution exercises control.

The Institution is committed to maintaining an environment free from sex-based discrimination in accordance with Title IX. American Career College recognizes that it is important to coordinate this Title IX policy with other existing policies related to harassment and discrimination, knowing that harassment related to an individual's sex may occur in conjunction with misconduct and harassment related to a person's race, ethnicity, national origin, religion, age, pregnancy or parenting status, disability, or other protected status. Therefore, when a report is made of harassment or discrimination based on sex as well as harassment or discrimination based on some other protected status, the Institution will use all applicable policies respectively to address the reports and will coordinate the investigation and resolution efforts. Other applicable policies include, but are not necessarily limited to, the General Non-Discrimination Policy, the Student Conduct Policy and those provided for in the Associate Handbook.

In the event that this Title IX policy is under review because of new federal or state law, the Title IX Coordinator has the right to implement changes to ensure that the most recent procedures are utilized in order to remain in compliance with Title IX and the Clery Act. Therefore, if that should occur, the Title IX Coordinator will provide, in writing, all changes that deviate from this written policy to the parties so that they are aware of the timeframes for resolution and the process that will be used to investigate and resolve the complaint.

Inquiries regarding the application of this Title IX policy and the respective grievance procedures used to resolve complaints may be referred to the recipient's Title IX Coordinator, to the U.S. Department of Education's Office for Civil Rights, or both.

## **TITLE IX COORDINATOR AND DEPUTY COORDINATORS**

American Career College has designated a primary Title IX Coordinator who is responsible for the oversight of this policy and any related procedures and with coordinating the Institution's efforts to comply with Title IX. The Title IX Coordinator receives all reports under this policy, oversees the effective implementation of supportive measures, and the resolution of all Title IX complaints, while identifying and addressing any patterns or systemic problems that arise during the review of such reports. The Title IX Coordinator's responsibilities include oversight of a prompt, fair, equitable investigation and resolution process for formal complaints of prohibited conduct and the process for informal resolution. The Title IX Coordinator also evaluates trends on campuses by using information reported and makes recommendations for institution specific student training and education programs.

American Career College has Deputy Title IX Coordinators, who function as a secondary conduit of information flow between the various campuses and the Title IX Coordinator. The Deputy Coordinators may also be involved in the implementation of supportive measures as directed by the Title IX Coordinator and the maintenance and storage of records specific to the Institution within their span of control and within the established records retention schedule. The Deputy Title IX Coordinators assist in the Institution's efforts to comply with Title IX and will manage the intake of complaints based on prohibited conduct and have day-to-day responsibilities for the supportive measures offered to the parties.

The Deputy Title IX Coordinators may serve as the designee for the Title IX Coordinator in any case where there is a conflict of interest or where either party has identified a conflict of interest in his/her case with the Title IX Coordinator. For purposes of this policy, any reference to the “Title IX Coordinator” should be read as the “Title IX Coordinator or designee.”

<b>Title IX Coordinator</b>	
<b>Audrey Kaplan</b> Vice President, Compliance and Risk Management 949-743-5765 <a href="mailto:AKaplan@americancareercollege.edu">AKaplan@americancareercollege.edu</a> Administration Office, 151 Innovation Drive, Irvine, CA 92617	
<b>Chief Deputy Title IX Coordinator</b>	
<b>Patrick Holt</b> Community Standards Manager 949-344-7955 151 Innovation Dr. Irvine, CA 92617 <a href="mailto:pholt@americancareercollege.edu">pholt@americancareercollege.edu</a> The Chief Deputy Coordinator is responsible for oversight and guidance on all matters related to Title IX.	
<b>Title IX Deputy Coordinators</b>	
<b>Mandy DeJong</b> Regulatory Compliance Associate 949-783-4952 <a href="mailto:mdejong@americancareercollege.edu">mdejong@americancareercollege.edu</a> Administration Office, 151 Innovation Drive, Irvine, CA 92617 *This Deputy Coordinator has responsibility for providing modifications/supports for pregnancy or related conditions for students.	
<b>Nina Khiev</b> Regulatory Compliance Associate 949-783-4826 <a href="mailto:nkhiev@americancareercollege.edu">nkhiev@americancareercollege.edu</a> Administration Office, 151 Innovation Drive, Irvine, CA 92617 * This Deputy Coordinator has responsibility for providing guidance to students who have questions about Title IX regarding the actions of other students.	
<b>Leslie Zarrelli</b> Executive Director, HR Business Partner (202) 794-7768 <a href="mailto:lzarrelli@americancareercollege.edu">lzarrelli@americancareercollege.edu</a> Administration Office, 151 Innovation Drive, Irvine, CA 92617 *This Deputy Coordinator has responsibility for providing modifications/supports for pregnancy or related conditions for employees/faculty and for any Title IX complaints that include an employee as a party, but no student as a party.	

## PROHIBITED CONDUCT

ACC expressly prohibits all forms of sex based harassment, including sexual assault, dating violence, domestic violence and stalking as defined below. The definitions in this policy may differ from those used in the civil or

criminal laws of California, where ACC has campus locations. In some cases, the definitions include behaviors that, while not torts or crimes under state law, still violate the institution's standards of conduct for faculty, staff, and students. In addition, certain conduct may be punishable under state or federal criminal statutes, civil law, but not institutional policy. These processes are separate and distinct from one another, however, can run concurrently if the complainant chooses to report an incident to the local police in addition to the Title IX Coordinator.

This policy specifically prohibits sexual harassment as defined by Title IX of the Education Amendments of 1972. Conduct that does not qualify as prohibited conduct under this policy may still be prohibited behaviors at ACC and will be addressed in accordance with the procedures set forth for students or associates in the Catalog and Student Handbooks, including the Student Conduct Policy or the Associate Handbook.

Discrimination, including harassment, based on a student's current, potential, or past pregnancy or related conditions will be resolved using the Student Complaint Procedure, also referenced in the University's General Non-Discrimination Policy. Appendix A contains a resource summary of rights and options available to students who are pregnant or who have a condition that has arisen from pregnancy.

For purposes of this policy: Complainant means an individual who is alleged to be the victim of conduct that could constitute prohibited conduct. Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute prohibited conduct. References to "party" or "parties" throughout the policy refers to the complainant and respondent individually or collectively.

For purposes of this policy, all of the following definitions constitute conduct to be "on the basis of sex." ACC will treat attempts to commit any of the prohibited conduct as if those attempts had been completed.

### Definitions of Prohibited Conduct

- **Quid Pro Quo Harassment** is an employee of the Institution conditioning the provision of any aid, benefit, or service of the Institution on an individual's participation in unwelcome sexual conduct.
- **Hostile Environment Harassment** is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Institution's education program or activity.
- **Non-consensual Sexual Contact** is kissing or touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity
- **Non-consensual Sexual Intercourse** is the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.
- **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape** is sexual intercourse with a person who is under the statutory age of consent.

- **Domestic Violence** is a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim; who is cohabitating or has cohabitated with the victim as a spouse or intimate partner, shares a child in common with the victim; or commits acts against a youth or adult victim who is protected from whose acts under family or domestic violence laws of the jurisdiction.
- **Dating Violence** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- **Stalking** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress. For the purposes of this definition, a "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

## Definition of Consent

In the State of California, in order for individuals to engage in sexual activity of any type with each other, there must be affirmative consent prior to and during sexual activity. Affirmative consent is defined as affirmative, conscious, and voluntary agreement to engage in sexual activity. To obtain consent, a clear, "yes" is necessary. Consent cannot be inferred from the absence of a "no." Non-verbal consent is not as clear as talking about what an individual wants or does not want sexually. Consent can be revoked at any time and the existence of a dating or marital relationship between the parties in no way infers consent.

### *What constitutes lack of consent?*

Consent cannot be inferred through silence or lack of resistance. Consent to one activity does not constitute consent to other sexual acts. Past sexual activity does not constitute consent for future acts. If at any time consent is uncertain, the initiating party should stop and obtain verbal consent. Consent can be withdrawn at any time. The use of any force, display of force, coercion, or intimidation negates consent. Consent is also not present if someone is incapacitated by alcohol, illegal drugs, or over the counter medication.

Individuals who are incapacitated may not legally give consent to sexual activity. Incapacitation includes, but is not limited to, being highly intoxicated, passed out, or asleep. A person who is incapacitated for purposes of this policy is one who is not legally able to give consent because they are mentally or physically helpless. "Mentally helpless" is when a person suffers from a mental illness or a condition (like being passed out, asleep, or highly impaired) that renders them incapable of understanding the nature of their conduct or rendering their own self-care. "Physically helpless" means a person has restriction of movement, either temporarily or

permanently.

When incapacitation occurs due to alcohol or drug use, indicators of incapacitation may include the following:

- Slurred speech
- Bloodshot or unfocused eyes
- Unsteady gait; needing assistance to walk/stand
- Vomiting
- Outrageous or unusual behavior
- Concern expressed by others about the individual
- Expressed memory loss or disorientation

## **CONFIDENTIALITY**

If the complainant reports to the Institution and requests confidentiality or asks that the complaint not be pursued, the Institution will take all reasonable steps to respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation including providing supportive measures as available. If a complainant insists that his/her name or other identifiable information not be disclosed to the respondent, the Institution's ability to respond may be limited. If the complainant continues to ask that his or her name not be revealed, the Institution will take all reasonable steps to respond to the complaint consistent with the party's request as long as doing so does not prevent the Institution from responding effectively to the harassment and preventing harassment of other parties. At the same time, the Institution will evaluate the confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all persons. It is a violation of the Institution policy to retaliate against an individual bringing a complaint or providing information for an investigation.

Education records are maintained in accordance to Family Educational Rights and Privacy Act of 1974 (FERPA). All documentation related to a student's complaint, investigation, and resolution is protected by FERPA and not available to the public. Non-identifying information may be shared with Safety and Security in order to comply with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. A complainant's name will never be published nor does the Institution house identifiable information regarding victims in the daily crime log or online. Persons may request that directory information on file be removed from public sources by request. To request removal of directory information, students should contact the Registrar or the Title IX Coordinator.

## **REPORTING**

Any person may report an incident of prohibited conduct, as defined by this policy. ACC encourages anyone who experiences or becomes aware of prohibited conduct to immediately contact one of the options listed below including reporting to the Institution, to law enforcement, or to an off-campus resource.

### **Reports to the Institution**

Any person who believes they have been the subject of prohibited conduct, as defined above, or is aware of a member of the community who has been subject to prohibited conduct, is strongly encouraged to contact the Title IX Coordinator, the Deputy Title IX Coordinator or Student Affairs to make a report. A report may be made by the person who experienced the prohibited conduct or by a third-party, including, but not limited to, a friend, family member, advisor, or ACC associate. Reports to the Title IX Coordinator may be made in person,



by mail, by telephone, or by email, using the contact information listed above, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours). Reports are encouraged to be submitted through the online portal located on the ACC website at: [ACC Submit a Title IX Complaint](#).

The Institution has actual knowledge when prohibited conduct is reported to the Title IX Coordinator or other officials with authority to institute corrective measures at the Institution. Upon receipt of actual knowledge, the Title IX Coordinator will contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, and explain to the complainant the process for filing a formal complaint.

ACC does not limit the timeframe for reporting. If the respondent is no longer affiliated with ACC at the time the report is made, then the Institution will still conduct an inquiry for purposes of complying with Title IX and will provide supportive measures as appropriate.

**All faculty members, volunteers on campus who work with students or minors, and every person identified as Campus Security Authorities (CSAs) under the Clery Act have responsibility to report to the Title IX Coordinator any reports of prohibited conduct made to them or observed by them, including the name of the complainant and respondent if known. ACC requires everyone in the campus community to report the suspected abuse of children (those under the age of 18.)**

### **Reports to Public Safety and Law Enforcement**

After an incident of prohibited conduct that poses a threat to the safety or physical well-being of a person or could be constitute a crime under the law, the victim should consider contacting law enforcement and seeking medical attention as soon as possible. A forensic medical exam may be helpful if a victim decides to pursue criminal charges. In California, Florida and Texas, evidence may be collected even if you choose not to make a report to law enforcement. Individuals who experience sexual violence are encouraged to preserve evidence and to note the location and identity of witnesses.

<b>For Emergencies Contact 911</b>
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ACC encourages and supports victims of crime in involving law enforcement and ACC will support any person in reaching law enforcement and assisting them with filing a report. Although ACC strongly encourage all members of its community to report crimes to law enforcement, it is the victim's choice whether to make a report and have the right to decline involvement with the police.

ACC employs a contract security company that enforces ACC policies and procedures and maintains a solid relationship with local law enforcement departments who are called upon to enforce federal, state, and local laws and codes. A Safety and Security office is located at each campus location. A security agent may also be reached through the Global Security Operations Center (GSOC).

**ACC Safety and Security Global  
Security Operations Center  
855-955-9911**

To contact the local police off campus in the jurisdiction of the local campus, see the chart below. Additionally, ACC Safety and Security will assist any person with accessing local law enforcement.

<b><u>ACC Campus</u></b>	<b><u>Local Police Agency</u></b>	<b><u>Address</u></b>	<b><u>Phone Number</u></b>
Orange County	Anaheim Police Department	320 S. Beach Blvd., Anaheim, CA 92804	(714) 765-1900
Ontario	Ontario Police Department	2500 S. Archibald Ave, Ontario, CA 91761	(909) 395-2001
Los Angeles	Los Angeles Police Department	7600 S. Broadway, Los Angeles, CA 90003	(213) 485-6409

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining orders of protection more difficult. If a victim chooses not to make a complaint regarding an incident, he or she nevertheless should consider speaking with Safety and Security or local law enforcement to preserve evidence in the event that the victim changes her/his mind at a later date.

### **Online/Anonymous Reporting**

Persons who wish to report via the web or wish to make an anonymous report may use the online reporting link. Reports using the online reporting link may be made by the victim or a third-party and it may be used to report any allegations of prohibited conduct at the Institution. Anonymous reports are accepted but the supplier of the anonymous report should be mindful that failure to disclose identifying information about the respondent, the complainant, or the facts and circumstances regarding the misconduct severely limits the Institution's ability to respond to, address, and remedy the effects of prohibited conduct. Anonymous reports that provide enough information to constitute a criminal offense will be reported to the Safety and Security Department, less any identifying information regarding the complainant, for purposes of inclusion in the Annual Security Report and to assess for purposes of sending out a Timely Warning Notice.

An anonymous report may be made online: [ACC Submit a Title IX Complaint](#)

### **Other Reporting Options**

ACC does not offer on campus resources in health, mental health, counseling, victim advocacy, legal assistance, or visa and immigration assistance. ACC encourages victims to utilize off-campus resources in their area of residence. See the [Annual Security Report](#) on the ACC website for a list of resources near each campus. For assistance, students and associates may contact the Student Affairs or Safety and Security at their individual campus or the Title IX Coordinator. Any of those offices can connect complainants with the resources they

may need.

## **SUPPORTIVE MEASURES AND INTERIM DISCIPLINARY ACTION**

Supportive measures are non-disciplinary, non-punitive individualized services designed to restore or preserve equal access to the Institution's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Institution's educational environment, or deter sexual harassment. Supportive measures will be offered as appropriate and as reasonably available without fee or charge to the parties before or after the filing of a formal complaint or where no formal complaint has been filed. These measures may include, but are not limited to, mutual no contact orders, changes in class or work assignments, academic housing, transportation and work accommodations, changes in work or class locations, leaves of absence, increased security and monitoring of certain areas, campus escorts, social restrictions, counseling and/or emotional support.

Any supportive measures provided to the parties will be maintained as confidential except as needed to provide the supportive measure.

The Institution may take interim disciplinary action against a student and institute an interim (emergency) removal in circumstances where the Title IX Coordinator has determined that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons (not including the respondent) arising from the allegations of sex discrimination exists. An interim removal may be an interim suspension or any necessary restriction prior to the resolution of the matter. Prior to imposing an interim removal, ACC will undertake an individualized safety and risk analysis.

The Institution may place an employee on administrative leave prior to or during the grievance process.

## **RIGHTS AND OPTIONS OF THE PARTIES**

The Title IX Coordinator will ensure that the complainant receives an explanation of rights and options written in plain language with concise information. The written notification of rights and options will include the following:

- The importance of obtaining and preserving forensic and other evidence;
- The right to report or not report the alleged incident to the Institution, law enforcement or both, including information about the survivor's right to privacy and which reporting methods are confidential;
- The right to request and receive assistance from campus authorities in notifying law enforcement;
- The right to request and receive assistance in obtaining and enforcing a campus-issued order of protection or no contact order;
- The right to speak to and receive assistance from on and off campus resources and other organizations that provide support and services to victims and survivors;
- The right to assistance from the Institution in accessing local health and mental health services, counseling, advocacy services, legal assistance, financial aid services and immigration/visa assistance;
- The right to supportive measures with or without the filing of a formal complaint, no matter where the incident is reported to have occurred and that the Institution will consider the complainant's wishes with respect to available supportive measures including without limitation changes to academic, living,

dining, working, and transportation situations;

- The right to request a formal or informal resolution process if cause is found to proceed under this policy and a summary of the appropriate complaint resolution procedures; and
- Contact information for all of the people and organizations listed herein.

In the event that a formal complaint is filed, the complainant and the respondent will receive a written notification of rights and options regarding the adjudication process, to include the following:

- The right for complainants and respondents to be treated equitably by the Institution which includes providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a grievance process that complies with this policy;
- The right to a fair, impartial, proceeding that begins promptly and is completed within reasonably prompt timeframes;
- The right to a resolution process that is consistent with the Institution's policies, transparent to the complainant and respondent, and in which the burden of proof and of gathering evidence rests with the Institution and not the parties;
- The right to an advisor of the party's choosing during the grievance process. If a party does not have an advisor at the time of the hearing, the Institution will provide without fee or charge, an advisor of the Institution's choice for purposes of conducting cross examination;
- The right to reasonable accommodations during any hearing, such as not being in the same room as the other party;
- The right to an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and that credibility determinations will not be based on a person's status as a complainant, respondent, or witness;
- The right to a determination regarding responsibility made at the conclusion of the resolution process and that the Institution makes no prior presumption of responsibility; and
- The right not to be retaliated against for filing a formal complaint and/or for participating in an informal or formal resolution process.

## **INVESTIGATION AND RESOLUTION**

### **Training**

Investigators, Decision-Makers, Appellate Officers, and Title IX Coordinators, Deputies, and Administrators are trained annually on issues related to domestic violence, dating violence, sexual assault, and stalking and taught how to conduct an investigation and grievance process that protects the safety of the victim and promotes accountability as required by the Clery Act. Additionally, they have received training as required by Title IX on the definition of sexual harassment in this policy, the scope of ACC's education program and activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Those persons serving as investigators have also received training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Those persons serving as decision-makers will

also receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

### **Filing a Formal Complaint**

A person who wishes to pursue a formal or informal resolution process at the Institution must file a formal complaint. A "formal complaint" is made when the Institution has received a written complaint signed by the complainant or signed by the Title IX Coordinator on the complainant's behalf. Additionally, the Institution may sign a complaint on behalf of the complainant that does not wish to participate, if the reported behavior has the potential to interfere with the educational mission of the Institution. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the Institution.

To file a formal complaint related to prohibited conduct under Title IX, contact the Title IX Coordinator, the Deputy Title IX Coordinator, or Student Affairs for their campus via mail, email, telephone, or in person or submit an online complaint at [ACC Submit a Title IX Complaint](#).

At the time of the filing of the formal complaint, the complainant may request the complaint be considered under the formal or informal resolution process.

### **Dismissals of the Formal Complaint**

Upon receipt of a formal complaint, the Title IX Coordinator will conduct an assessment to determine if the complaint constitutes a potential violation of this policy. If it does not, the complaint will be dismissed or could be referred to another department or complaint/grievance process if the complaint may have constituted a violation of another ACC policy. This includes complaints that would not constitute prohibited conduct as defined by this policy even if proved, did not occur within the Institution's education program or activity or did not occur against a person in the United States.

Additionally, a formal complaint may be dismissed at any time during the investigation or hearing if a complainant notifies the Title IX Coordinator in writing that he or she would like to withdraw the formal complaint, the respondent is no longer enrolled or employed by the Institution or specific circumstances prevent the Institution from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

The decision on dismissal will be made by the Title IX Coordinator but may be appealed by either party utilizing the appeal process outlined in this policy. Upon a dismissal required or permitted pursuant to this section, the Title IX Coordinator will promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

### **Consolidations**

The Title IX Coordinator has the discretion to consolidate multiple complaints or reports into a single investigation if evidence relevant to one incident might be relevant to the others. Where a grievance process involves more than one complainant or more than one respondent, references in this section to the singular "party," "complainant," or "respondent" include the plural, as applicable.

If a case involves potential violations of other ACC policies, the Title IX Coordinator, in consultation with other

school officials, will determine which grievance process to use or if different grievance processes would be more appropriate.

### **Amnesty/Immunity**

In order to encourage reports of conduct that are prohibited under this policy, the Institution may offer leniency with respect to other violations which may come to light as a result of such reports, including alcohol and drug use. The Title IX Coordinator will make this determination on behalf of the Institution on a case-by-case basis.

### **Formal Resolution Process – The Grievance Process**

If the complaint could constitute a violation of this policy and the complainant has requested a formal resolution process, the complainant and respondent will receive written notice from the Title IX Coordinator of the allegations of sexual harassment, including sufficient details known at the time with sufficient time to prepare before any initial interview. The parties will receive written simultaneous notification of additional allegations as appropriate.

A fair and impartial investigation will be conducted by at least one trained investigator appointed by the Title IX Coordinator. ACC reserves the right to employ external investigators if it determines that the investigation would be best conducted in this way. The parties will be provided with the name(s) of the investigator(s) and allowed 5 days to request the removal and replacement of an investigator based on bias or conflict of interest. Any request for a change in an investigator must be accompanied by supporting information and the decision to assign a new investigator will be made by the Title IX Coordinator.

Throughout the grievance process, the Title IX Coordinator will provide to parties whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of meetings, investigative interviews, and hearings, with sufficient time for the party to prepare to participate as well as advise the party of the opportunity to present evidence and witness information, if applicable.

A complainant and a respondent have the right to an advisor of choice to be present at any meeting or disciplinary proceeding in which either party is required to be present. ACC will not restrict who this advisor is but can and will restrict the role the advisor plays within the meeting or proceeding.

The investigation will typically include interviewing all involved parties and witnesses and the collection and review of any documentation or evidence relevant to the allegation. The Institution will not restrict either party from discussing allegations under investigation or from presenting relevant evidence or identifying relevant witnesses.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant and will not be requested by the investigator or allowed at the hearing, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. Additionally, the investigation and the hearing will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

At the conclusion of the investigation, the investigator and the Title IX Coordinator or Deputy Title IX Coordinator shall meet to determine if the preliminary investigation is complete. If the preliminary

investigation is complete, the Title IX Coordinator will send to each party and the party's advisor, if any, a preliminary investigative report containing any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint.

The parties will be given 10 days to correct any information that is factually inaccurate or to present any new information to the investigator at this time. If new information is presented that prompts the need for further investigation, the investigator will complete the investigation based on the new information shared. At the conclusion of the supplemental investigation or if no further investigation needs to occur, the investigator will provide the final investigative report to the Title IX Coordinator who will distribute it to the respective parties and the party's advisor, if any, at least 10 days prior to the hearing. The Investigator will include in the final investigative report a summary of relevant evidence.

### **Live Hearing**

Upon completion of the final investigative report, the case will be assigned to a hearing. The Title IX Coordinator will appoint a trained decision-maker to adjudicate the matter who is not the Title IX Coordinator or the investigator for the complaint. The parties will be provided with the name of the decision-maker and will be allowed 5 days to request the removal and replacement of the decision-maker based on bias or conflict of interest. Any request for a change in a decision-maker must be accompanied by supporting information and the decision to assign a new decision-maker will be made by the Title IX Coordinator.

Hearings will be conducted via an online platform with video capability, rather than in person.

At the live hearing each party's advisor will be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including questions that challenging credibility. If a party does not have an advisor, the Institution will appoint one on behalf of the party free of charge. In this capacity, the advisor will be appointed for the sole purpose of conducting cross examination of the other party and witnesses. If any advisor violates the rules or engages in behavior or advocacy that harasses, abuses, or intimidates either party, a witness, or the decision-maker, that advisor may be prohibited from further participation.

At the hearing, the decision-maker is responsible for maintaining an orderly, fair, impartial, and respectful hearing. The decision-maker has broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding any offending person. The Decision-Maker will determine the method for questioning at the hearing. Only relevant cross examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination question, the decision-maker must first determine whether the question is relevant and will explain any decision to exclude a question as not relevant. The decision-maker may also ask questions of the parties and witnesses.

In the absence of good cause, as determined by the decision-maker, information, witnesses, and other evidence discoverable through the exercise of due diligence that is not provided to the investigator during the investigation will not be considered at the hearing.

All hearings are closed to the public. A recording will be made by the Institution, but all other recordings are prohibited.

A complainant, respondent, or witness may decline to participate in the hearing. If a party or witness does not appear at the hearing, the decision-maker may consider statements made by a party or witnesses that were otherwise permitted, even if those parties or witnesses do not participate in cross-examination at the live

hearing held to reach a determination regarding responsibility in a Title IX grievance process. The decision-maker will not draw an inference about the responsibility determination based solely on a party's or witness's absence from the hearing or refusal to submit to questions.

At the conclusion of the hearing, the decision-maker will make a determination of responsibility. If the decision-maker has determined that it is more likely than not that prohibited conduct occurred in violation of this policy, the decision-maker will decide on the appropriate sanctions and remedies. After making a finding, the decision-maker will issue the determination, to include the reason for the finding and the associated sanctions and remedies, if any, in writing and simultaneously to the complainant and respondent.

The Title IX Coordinator and Deputy Coordinators will routinely confer on all cases to ensure consistent application of this policy.

The standard of proof used to determine whether or not a violation of this policy has occurred is the *preponderance of evidence*, which means it is more likely than not the misconduct occurred.

Typically, the investigation, resolution, and appeal will not exceed 60 days although ACC reserves the right to exceed this timeframe in order to conduct a thorough investigation. If the grievance process does or is anticipated to exceed 60 days, ACC will notify the complainant and respondent in writing and will advise them of the reason for the delay and the anticipated timeframe for the completion of the investigation.

The outcome/finding, the rationalization for the finding, and the sanctions imposed, if any, shall be conveyed to the complainant and respondent simultaneously and in writing as noted above via the ACC email system.

### **Sanctions**

The Decision-maker is responsible for determining sanctions and remedies. The following sanctions and remedies may be imposed, individually or in any combination, when a Respondent is found responsible for violating this policy:

- Education/Training Requirement
- Loss of Privileges
- Forfeiture of Financial Assistance
- Permanent Supportive Measures
- Restitution
- Termination from Employment
- Probation
- Suspension
- Expulsion

Student Services will impose the sanctions as identified by the Decision-Maker. The Title IX Coordinator will be responsible for implementing any remedies for the complainant.

### **Appeals**

Both the complainant and the respondent have a right to appeal the finding or non-finding of responsibility or the dismissal of the case. Appeals must be on one of the following grounds:

- Procedural irregularity that affected the outcome of the matter;



- 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
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Both parties will have five business days from notification to appeal in writing to the next level of authority, whose decision is final. The decision-maker on appeal will not have been involved in the process up to the point of appeal.

Appeal Link:

[Submit a Title IX Appeal](#)

Both individuals will be informed in writing and simultaneously of any change to the results that occur prior to the time that such results become final and when such results become final.

### **Informal Resolution Process**

At the time of the filing of a formal complaint or at any time prior to a determination of responsibility, either party may request to proceed under a voluntary informal resolution process that does not involve a full investigation. The Title IX Coordinator will determine, based on the totality of the circumstances, whether an informal resolution process is appropriate given the facts and participants. For example, an informal resolution process is never appropriate for resolving reports alleging sexual harassment of a student by an employee.

Upon request and written agreement by the parties and the Title IX Coordinator that the informal resolution process is appropriate, the Title IX Coordinator will provide to the parties a written notice disclosing the allegations, and the requirements of the informal resolution process, including when the parties are precluded from resuming a formal resolution process, any consequences resulting from participating in the informal resolution, and the records that will be maintained and shared. Informal resolutions are not subject to appeal by any party.

Informal resolutions may include, but are not limited to;

- Placing a respondent on notice that, if such behavior has occurred or is occurring, such conduct should cease immediately;
- A written warning;
- Education and/or training for a respondent;
- Permanent supportive measures for the complainant;
- Mediation or other informal communication between the complainant and respondent;
- Messaging to the campus community;

The parties may withdraw from the informal resolution process at any time prior to agreeing to a resolution and resume the formal resolution process with respect to the complaint.

### **NON-RETALIATION**

Retaliation is defined as the taking of an adverse action against a person *because of* his or her opposition to unlawful discrimination or participation in a complaint, investigation, or lawsuit about discrimination.

Retaliation includes acts like taking actions to affect a person's academic or school-related activities such as threats, unjustified negative evaluations, unjustified negative references, or increased surveillance, and any other action such as an assault or unfounded civil or criminal charges that are likely to deter reasonable people from pursuing their rights.

Adverse actions do not include petty slights and annoyances, such as stray negative comments in an otherwise positive or neutral evaluation, "snubbing" a student, not talking to a student, or negative comments that are justified by a student's poor performance or history.

It is unlawful and a violation of this policy to retaliate against any person who has brought a good-faith complaint of discrimination or harassment or who has assisted in the investigation of a complaint of discrimination or harassment. Retaliation, whether actual or threatened, destroys the sense of community and trust that is critical to a learning and work environment. ACC considers acts or threats of retaliation in response to such disclosures or participation to constitute a serious violation of ACC's policy, which may result in disciplinary action, up to and including dismissal, against the retaliator.

It is important to note that impermissible retaliation can occur even in those circumstances where it is determined that the complaint brought was without merit.

Any person who believes he or she is being retaliated against because of making a complaint or assisting in an investigation in violation of this policy, should promptly report the concerns to the Title IX or Deputy Title IX Coordinator assigned to the case. Allegations of retaliation will be handled through the Student Conduct Code or the Associate Handbook.

## **RECORD MANAGEMENT**

The University will keep for 7 years, the following:

- All information obtained as part of each sexual harassment investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript; any disciplinary sanctions and/or remedies; any appeal, including the result of the appeal; and any informal resolution and the result therefrom.
- All information regarding any action taken, including supportive measures, and a rationale as to why a formal complaint was not filed. If a complainant was not provided supportive measures, a rationale must be provided as to why supportive measures were not provided.
- All training materials used to train Title IX Coordinators, investigators, decision makers, appellate administrators, and those who facilitate the informal resolution process.

Generally, information from a student's discipline file is not released without the written consent of the student. However, certain information may be provided to individuals within or outside the Institution who have a legitimate legal or educational interest in obtaining it. Typically, the information that is released to those outside of the Institution is limited to information associated with findings of "in violation" which resulted in a suspension or expulsion (discipline file). Please refer to the federal Family Educational Rights and Privacy Act of 1974 (FERPA).

Personnel files are the property of the Institution and will not be shared without a subpoena.

## **DISABILITY ACCOMMODATIONS AND INTERPRETIVE SERVICES**

Students with a disability who desire accommodation regarding this policy must request an accommodation by contacting the Title IX Coordinator. It is the individual's responsibility, and not that of the Institution, to request accommodation. The Title IX Coordinator will make a determination regarding the request and notify the appropriate parties.

Employees with a disability who desire accommodation regarding this policy must request an accommodation with Human Resources. Similarly, those in need of interpretive services are encouraged to contact the Title IX Coordinator or Human Resources.

## **Appendix A**

### **Pregnancy and Related Conditions: Additional Information**

ACC is committed to creating and maintaining a community free from discrimination, including discrimination on the basis of sex, as mandated by Title IX of the Education Amendments of 1972. Sex discrimination, which can include discrimination based on a student's current, potential, or past pregnancy or related conditions, is prohibited and illegal. The institution is providing this information to ensure the protection and equal treatment of pregnant or related conditions of students.

This appendix serves as a resource for students who are pregnant. If you have a complaint of discrimination concerning pregnancy and/or related conditions, those complaints shall be addressed and resolved under the procedures set forth in the ACC General Non-Discrimination Policy. See the Title IX Coordinator for more information regarding complaints that do not constitute prohibited conduct. Employees are also protected from discrimination based on pregnancy or related conditions in their employment and should contact Human Resources for support and assistance.

ACC will treat pregnancy or related conditions in the same manner and in accordance with the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy ACC administers, operates, offers, or participates in with respect to students admitted to the institution's education program or activity.

The following is a summary of rights and options available to students who are pregnant or who have a condition that has arisen from pregnancy. The Title IX Coordinator has delegated responsibility for pregnancy accommodations to the Deputy Title IX Coordinators and Student Affairs personnel. Any reference to the Title IX Coordinator for this purpose is intended to include and refer to these other personnel.

#### **Reasonable modifications**

Pregnant students have the right to access the educational program and associated activities regardless of their status as pregnant and as such, will be provided with reasonable modifications if requested. Each reasonable modification must be based on the student's individualized needs. In determining what modifications are required, the Title IX Coordinator must consult with the student. A modification that the institution can demonstrate would fundamentally alter the nature of our education program or activity is not a reasonable modification.

The student has discretion to accept or decline each reasonable modification offered by the Title IX Coordinator. If a student accepts any offered reasonable modification, the Title IX Coordinator will implement it. Reasonable modifications may include, but are not limited to, breaks during class to express breast milk or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (for example, access to a larger desk or a footrest); elevator access; or other changes to policies, practices, or procedures.

#### **Comparable treatment to other temporary medical conditions**

The institution shall treat pregnancy or related conditions in the same manner and under the same policies as

any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy ACC administers, operates, offers, or participates in with respect to students admitted to ACC's education program or activity.

#### **Voluntary access to separate and comparable portion of program or activity**

The institution will allow the student to voluntarily access any separate and comparable portion of ACC's education program or activity if such a comparable portion of the program or activity is available.

#### **Voluntary leaves of absence**

ACC will allow the student to voluntarily take a leave of absence from ACC's education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. When the student returns to the education program or activity, the student will be reinstated to the academic status and as practicable, to the extracurricular status that the student held when the voluntary leave began.

#### **Certification to participate**

ACC will not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in ACC's class, program, or extracurricular activity unless:

- (i) The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity; and
- (ii) ACC requires such certification of all students participating in the class, program, or extracurricular activity; and
- (iii) The information obtained is not used as a basis for discrimination prohibited by law.

#### **Lactation space**

ACC has a lactation space, which is a space other than a bathroom, which is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk as permitted by ACC. Information regarding the lactation space may be obtained from Student Affairs. Students may also contact the Title IX Coordinator or the designated Deputy Coordinator, for more information on lactation.

#### **Limitation on supporting documentation**

ACC will not require supporting documentation unless the documentation is necessary and reasonable for ACC to determine the reasonable modifications to make or whether to take additional specific actions. Examples of situations when requiring supporting documentation is not necessary and reasonable include, but are not limited to, when the student's need for a specific action is obvious, such as when a student who is pregnant needs a bigger uniform; when the student has previously provided ACC with sufficient supporting documentation; when the reasonable modification because of pregnancy or related conditions at issue is allowing a student to carry or keep water nearby and drink, use a bigger desk, sit or stand, or take breaks to eat, drink, or use the restroom; when the student has lactation needs; or when the specific action is available to students for reasons other than pregnancy or related conditions without submitting supporting documentation.

#### **Prohibition on Retaliation**

Faculty, staff, and other ACC employees are prohibited from interfering with a student taking leave, seeking reasonable modifications, or otherwise exercising their rights under ACC Policy. Faculty, staff, and other ACC

employees are prohibited from retaliating against a student for exercising the rights articulated by this document, including imposing or threatening to impose negative educational or other outcomes because a student requests leave, modifications, files a complaint, or otherwise exercises their rights under any ACC policy.