

MANUAL OF PROCEDURE

PROCEDURE NUMBER: 1665

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PROCEDURE TITLE: Discrimination and Harassment Grievance Process

STATUTORY REFERENCE: TITLE VI, VII AND VIII, 1964 CIVIL RIGHTS ACT; TITLE IX EDUCATION AMENDMENTS OF 1972 AS AMENDED; CIVIL RIGHTS ACT OF 1991; TITLE IV OF THE CIVIL RIGHTS ACT OF 1964 (“TITLE IV”), 42 U.S.C. § 2000C-6; GENETIC INFORMATION NON-DISCRIMINATION ACT OF 2008; SECTIONS 1000.05 AND 1001.64 FLORIDA STATUTES; STATE BOARD OF EDUCATION RULES 6A-19.001 AND 6A-19.010; THE WHISTLEBLOWER PROTECTION ENHANCEMENT ACT OF 2012; THE WHISTLE-BLOWER’S ACT, SECTIONS 112.3187-31895, FLORIDA STATUTES AND CHAPTERS 741, 784 AND 794, FLORIDA STATUTES; JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS ACT (THE CLERY ACT) AS AMENDED IN 2008; THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013 (“VAWA”); SECTION 4

BASED ON POLICY: I-20 Sexual Assault, Dating Violence, Domestic Violence and Stalking
I-21 Equal Access/Equal Opportunity

EFFECTIVE DATE: May 18, 2004

LAST REVISION DATE: June 26, 2020

LAST REVIEW DATE: June 26, 2020

I. PURPOSE

To provide a grievance procedure for students, employees, and applicants for admission or employment alleging discrimination or harassment based upon sex, race, color, marital status, age, religion, national origin, pregnancy, ethnicity, disability, veteran’s status, sexual orientation or genetic information.

All supervisory and administrative personnel, faculty and staff are expected to become familiar with this procedure and to assist the College and a complainant whenever instances of discrimination, harassment or whistleblowing, as described in this procedure, are observed or reported.

The College’s Office of Equal Opportunity Programs/ADA Coordinator/Title IX Coordinator (EOP/ADA/TITLE IX) serves as the College’s primary resource on all matters relating to discrimination, harassment and whistleblowing.

II. DEFINITIONS

A. Discrimination

Adverse treatment based on an individual’s sex, race, color, marital status, age, religion, national origin, ethnicity, disability, veteran’s status, sexual orientation, or genetic information.

B. Harassment

Unwelcome conduct, based upon sex, race, color, marital status, age, religion, national origin, pregnancy, ethnicity, disability, veteran's status, sexual orientation or genetic information that impacts either a condition of work or learning (quid pro quo) or creates a hostile environment.

1. Quid Pro Quo Harassment consists of unwelcome conduct when:
 - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, employment decisions, or academic advancement; or
 - b. Submission to, or rejection of, such conduct by an individual is used as the basis for decisions affecting such individual in matters of employment, employment decisions, or academic advancement.
2. Hostile Environment Harassment consists of unwelcome conduct when:
 - a. Such conduct has the effect of unreasonably interfering with an individual's work or academic performance; or
 - b. Such conduct has the effect of creating an intimidating, hostile or offensive work or learning environment.

C. Retaliation

Conduct causing any interference, coercion, restraint or reprisal against a person complaining of discrimination or harassment or participating in the resolution of a complaint of discrimination, harassment or whistleblowing.

D. Sexual Harassment Sexual Assault, Dating Violence, Domestic Violence and Stalking are forms of sexual harassment prohibited by Title IX.

Conduct on the basis of sex that satisfies any of the following:

- A school employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct (often called "quid pro quo" harassment);
- 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 school's education program or activity; or
- Sexual assault, dating violence, domestic violence, or stalking (as those offenses are defined in the Clery Act, 20 U.S.C. § 1092(f), and the Violence Against Women Act, 34 U.S.C. § 12291(a)).

Sexual Assault: Any sexual act, contact or behavior directed against another person,

without the consent of the victim, including instances where the victim is incapable of giving consent. This includes, but is not limited to rape, fondling, incest and statutory rape. For the purposes of complying with the requirements of this section, any incident meeting this definition is considered a crime for the purpose of Clery Act reporting.

Dating Violence: 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 by the victim 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 purpose of this definition it: a) includes, but is not limited to, sexual or physical abuse or the threat of such abuse; and b) does not include acts covered under the definition of domestic violence. For the purposes of complying with the requirements of this section, any incident meeting this definition is considered a crime for the purpose of Clery Act reporting.

Domestic Violence: Violence committed by: a) a current or former spouse or intimate partner of the victim; b) a person with whom the victim shares a child in common; c) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; d) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or e) any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred. For the purposes of complying with the requirements of this section, any incident meeting this definition is considered a crime for the purpose of Clery Act reporting.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress. For the purpose of this definition, "course of conduct" means 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. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. "Reasonable person" means a reasonable person in the victim's circumstances. For the purposes of complying with the requirements of this section, any incident meeting this definition is considered a crime for the purpose of Clery Act reporting.

Consent: Intelligent, knowing, and voluntary consent. It does not include coerced submission and shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.

1. Amorous Relationships

The College strongly discourages amorous relationships, whether consensual or not, between employees who supervise students; between faculty members and students in their classes; and between supervisors and subordinates. In recognition of interests

in privacy and free association, the College does not prohibit fully consensual amorous relationships. However, members of the College who hold positions of authority should avoid actions that can be considered sexual harassment. Even an apparently consensual amorous relationship may lead to sexual harassment or other breaches of professional obligations if one of the individuals in the relationship has a professional responsibility toward or is in a position of authority with respect to the other, such as in the context of instruction, advisement, or supervision. Due to the difference in authority, there may be the appearance of favoritism and it may be difficult to assure that the relationship is truly consensual.

If involved in an amorous relationship with someone over whom he or she has supervisory authority, the individual must inform his or her immediate supervisor and take steps to remove him or herself from any participation in recommendations or decisions affecting evaluation, employment conditions, instruction, or the academic status of the other person in the relationship. The supervisor informed of the amorous relationship will document such and will take appropriate action to comply with the provisions of this section.

- E. **Complainant**
An individual who is alleged to be the victim of conduct that could constitute sexual harassment
- F. **Respondent**
An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- G. **Formal Complain**
A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment.
- H. **Supportive Measures**
Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, without fee or charge, to the complainant or respondent, before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures include victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, legal assistance arranging for employee assistance referrals through insurance benefits; and changes in class schedules, testing schedules, and living and work arrangements that may be available.
- I. **Whistleblowing**
A College employee, or an employee of an independent contractor or subcontractor for the College, who reasonably believes there is evidence of gross mismanagement, a gross waste, an abuse of authority, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation by an employee or agent of the College or its independent contractor or subcontractor. Such violations may include, but not be limited to, a federal or state contract or grant (including the competition for or negotiation of a contract) with the College.

III. PROCEDURE

Any Miami Dade College employee, student, applicant for admission or employment or other participant in the College's programs or activities who believes he or she has been unlawfully harassed or discriminated against on the basis of sex, race, color, marital status, age, religion, national origin, pregnancy, ethnicity, disability, veteran's status, sexual orientation, or genetic information is urged to communicate that information to an appropriate College official, as more fully described below. ALL COLLEGE EMPLOYEES ARE EXPECTED TO REPORT ANY HARASSMENT OR DISCRIMINATION THAT THEY OBSERVE, HAVE HEARD ABOUT, OR BELIEVE MAY BE OCCURRING.

- A. All complaints must be in writing and on the Miami Dade College Discrimination or Harassment Complaint Form, which may be obtained from the EOP/ADA/TITLE IX or from the College's website (www.mdc.edu) and be filed in a timely manner within 30 days after the occurrence of the most recent allegedly discriminatory act. At the discretion of EOP/ADA/TITLE IX, the date may be extended due to extenuating circumstances. In addition to or instead of filing with EOP/ADA/TITLE IX, the complainant may file a formal charge of discrimination with a state or federal agency authorized by law to receive such claims.
- B. The complaint should include the complainant's name and signature; describe the act or acts complained of; identify the person or persons purportedly responsible (the "Respondent"); indicate the date(s) or approximate date(s) on which the act or acts occurred; and the names and contact information of potential witnesses. The complaint should also include the effect the alleged acts have had on the complainant; complainant's desired resolution; and any other information the complainant believes is relevant.
- C. Initial Contact and Filing of Complaint
 1. If the matter involves a student or applicant for admission, whether as a complainant or a respondent, the Office of the Dean of Students of each campus or a designee of his or her professional staff ("collectively referred to in this procedure as the "Dean's Office") shall be the initial point of contact. This office must provide assistance and support, respond to inquiries and provide general information regarding discrimination issues. This office must also provide a copy of the official complaint to the EOP/ADA/TITLE IX.

The Dean's Office shall describe the discrimination complaint process to the complainant; review information relative to the complaint; and schedule any meetings or hearings requested or required by this procedure. If a complainant cannot state a sufficient basis in fact or law to support a discrimination or harassment claim, the Dean's Office shall attempt to assist the complainant with selecting a more appropriate internal means of resolving the specific complaint.

2. If the matter involves the complainant of an employee or an applicant for employment, the EOP/ADA/TITLE IX shall be the initial point of contact. The EOP/ADA/TITLE IX will provide assistance and support, respond to inquiries and provide general information regarding discrimination issues. The EOP/ADA/TITLE IX shall also describe the discrimination complaint process to

the complainant; review information relative to the complaint; and schedule any meetings or hearings requested or required by this procedure. If a complainant cannot state a sufficient basis in fact or law to support a discrimination or harassment claim, the EOP/ADA/TITLE IX shall attempt to assist the complainant with selecting a more appropriate internal means of resolving the specific complaint.

3. Alternate Points of Contact

Employees, students or applicants may initially advise any College official (Area Head, Faculty member, Chairperson, etc.) in whom they have confidence, of a complaint of discrimination or harassment. The College official who is advised of a complaint or potential complaint of discrimination or harassment must refer students to the Office of the Dean of Students, or must refer employees and applicants to the EOP/ADA/TITLE IX.

D. Informal Resolution of Complaint

Complainants are encouraged, where appropriate, to attempt, initially, to resolve complaints by informal resolution. The informal resolution process is an attempt to resolve complaints quickly and to the satisfaction of all parties, while protecting confidentiality to the extent authorized by law. EOP/ADA/TITLE IX will be available to provide assistance to the employment unit or academic department in order to resolve the complaint. If the complaint cannot be resolved through the informal resolution process, a formal complaint may be filed as outlined in this procedure.

The informal resolution process shall be handled by the following offices:

1. In cases where the complainant is a student, an applicant for admission, or the complaint involves a student as respondent, the Office of the Dean of Students;
2. In cases where the complainant is an employee, the Office of the Campus President, District Vice Provost, Provost for Operations, or designee (collectively referred to in this procedure as the “Area Head”) or the EOP/ADA/TITLE IX;
3. In cases where the complainant is an applicant for employment, the EOP/ADA/TITLE IX.

No later than 10 work days after the filing of the complaint, the appropriate office, as referenced above, will meet separately with the complainant and respondent to determine the factual allegations on which the complaint is based and to discuss the complaint procedures.

If it is determined that the complaint is suitable for informal resolution, that option will be discussed and offered to the complainant and the respondent, who will be given five work days to decide whether to proceed with informal resolution. If the complaint is deemed by the appropriate office to be unsuitable for informal resolution, or if either party declines to participate in or to make a decision regarding informal resolution, EOP/ADA/TITLE IX will conduct an investigation.

At any time during the informal resolution process, either party may elect to terminate the process, and the complaint will then be investigated by EOP/ADA/TITLE IX. EOP/ADA/TITLE IX reserves the right not to proceed with an investigation if it determines that during the informal resolution process a complainant was offered and refused all of the relief to which he or she would be entitled. Generally, EOP/ADA/TITLE IX will not involve any person other than the complainant and respondent in the informal resolution process, except as it may be necessary to consult with appropriate College officials regarding College policies and procedures. Informal resolution should be completed no later than 30 days after the complainant and the respondent have agreed to this process.

If the complaint is successfully resolved, each party will sign a "Memorandum of Understanding" prepared by EOP/ADA/TITLE IX, which describes fully the agreed-upon terms. A copy of the complaint and the Memorandum of Understanding" will be available to the complainant, the respondent and the appropriate Area Head as defined in this procedure.

IV. FORMAL COMPLAINT PROCESS (GENERAL)

If it is determined by the coordinating office that informal resolution is not appropriate, it is not agreed to by both parties, it is unsuccessful, or it is a whistleblower complaint, EOP/ADA/TITLE IX will conduct an investigation. As a condition of employment, employees of the College are required to cooperate with these types of investigations by providing truthful and complete information. It is the College's expectation that the employee will answer all questions and provide any knowledge he or she possesses that may be helpful to the inquiry. Employees, who refuse to answer questions related to their employment, are subject to discipline, up to and including termination of employment. The investigation will include, but is not limited to:

1. Interviews with material persons who may have relevant information;
2. Reviewing relevant files and records such as personnel files, departmental and/or unit files, and others;
3. Comparing the treatment of complainant to that of others similarly situated in the department or unit; and
4. Reviewing applicable laws, rule, regulations, policies, procedures and practices

The investigation shall be concluded within 60 work days of its inception, and EOP/ADA/TITLE IX shall issue a written report making findings of fact and any appropriate recommendations as to whether or not a policy violation is substantiated or has not been substantiated. Copies of the report will be provided to the complainant, the respondent, and the appropriate Campus President/District Vice Provost, Vice Provost for the Division of Human Resources, or Provost for Operations. Confidentiality of the investigation shall be maintained to the extent authorized by law.

In the case of a whistleblower complaint:

1. The EOP/ADA/TITLE IX shall determine whether information provided by the employee or agent of the College or Contractor (independent contractor or subcontractor) demonstrates reasonable cause for a violation of Section 112.3187, Florida Statutes or any other applicable law.
2. EOP/ADA/TITLE IX notifies the complainant and shall conduct an investigation within the time frames provided in Section 112.3189, Florida Statutes, and all other applicable law.
3. Upon conclusion of the investigation, EOP/ADA/TITLE IX shall provide copies of the report to the complainant, the College President, and the appropriate Campus President/District Vice Provost, Vice Provost for the Division of Human Resources, or Provost for Operations. Upon request of the complainant, any documents and other materials that were provided by the complainant shall be returned.

If EOP/ADA/TITLE IX concludes that the complainant's allegations are substantiated, the report will recommend that a directive be issued to stop the discriminatory practice or violation of law, if it is ongoing; recommend disciplinary or other corrective action against the respondent and others; and, if appropriate, recommend provisions for the complainant, such as reinstatement, hiring, reassignment, promotion, training, back pay, or other compensation or benefits.

The appropriate Area Head will make a determination, upon review of the EOP/ADA/TITLE IX's report, consultation with the Dean of Students, the Vice Provost for the Division of Human Resources, and any other appropriate Department head; and upon consideration of any other relevant information, including aggravating or mitigating circumstances, whether disciplinary action is warranted. If the Area Head determines that disciplinary action should be initiated, then, consistent with due process requirements, the respondent will be notified of such determination, in accordance with applicable Florida Board of Education and College policies and procedures, collective bargaining agreements and the Code of Student Conduct. All appropriate disciplinary procedures as provided for therein will be followed.

The EOP/ADA/TITLE IX will notify the complainant and the respondent, if applicable, of the results of the investigation and subsequent disciplinary or other corrective action taken, if any, to the extent allowed by law.

If EOP/ADA/TITLE IX concludes that the complainant's allegations are not substantiated, the OEOP report may, if appropriate recommend reasonable steps to restore the reputation of the respondent.

If applicable, the EOP/ADA/TITLE IX will notify the respondent of the results of the investigation when no policy violation is found and no further action planned.

The EOP/ADA/TITLE IX report represents the final disposition on the part of the College.

V. SEXUAL HARASSMENT GRIEVANCE PROCESS (TITLE IX)

Sexual Assault, Dating Violence, Domestic Violence and Stalking

General Guidance:

This grievance process is in accord with the Provisions of the Department of Education's Title IX of the Education Amendments

The College is committed to providing an institutional environment where all persons may pursue their studies, careers, duties, and activities in an atmosphere free from sexual harassment.

These protections apply to any Miami Dade College employee, student, applicant or other participant in the College's education programs or activities (on-campus or off-campus) who believe they are victims of sexual harassment in the United States.

A. Reporting

The College will investigate every formal complaint of sexual Harassment.

1. A Complainant may report sexual harassment concerns to the College's Title IX Coordinator, or to College official with authority to institute corrective measures on the Complainant's behalf.
 2. Any third party as well as the complainant may report sexual harassment.
 3. Parents and guardians (do not become complainants or respondents) have the legal rights of to act on behalf of parties, including by filing formal complaints in Title IX matters.
 4. A complaint may be filed anonymously.
 5. Any person may report sex discrimination, including sexual harassment whether or not the person reporting is the alleged victim of sex discrimination or sexual harassment. Reports may be made in person, by mail, by telephone, or by e-mail, using the contact information listed for the Title IX TX Coordinator.
- B. All complaints must be in writing and on the Miami Dade College Discrimination or Harassment Charge Form, which may be obtained from the EOP/ADA/Title IX or from the College's website (www.mdc.edu) and be filed in a timely manner.

The Charge Form should include the complainant's name and signature; describe the act or acts complained of; identify the person or persons purportedly responsible (the "Respondent"); indicate the date(s) or approximate date(s) on which the act or acts occurred; and the names and contact information of potential witnesses. The complaint should also include the effect the alleged acts have had on the complainant; complainant's desired resolution; and any other information the complainant believes is relevant. Complainants, in addition to or instead of filing with OEOP/ADA/Title IX, may file a formal charge of discrimination with a state or federal agency authorized by law to receive such claims.

- C. The Title IX Coordinator or an official with authority to institute corrective measures on the recipient's behalf, must promptly contact the complainant, confidentially, to discuss the availability of supportive measures, with or without the filing of a formal complaint,

and explain to the complainant the process for filing a formal complaint through the Office of Equal Opportunity Programs/ADA/Coordinator/Title IX Coordinator.

D. Initial Point of Contact

1. If the matter involves a student or applicant for admission, whether as a complainant or a respondent, the Office of the Dean of Students of each campus or a designee of their professional staff (“collectively referred to in this procedure as the “Dean’s Office”) may be the initial point of contact. The Dean, as an official with authority to institute corrective measures on the complainant’s behalf, must promptly contact the complainant, confidentially, to discuss the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint through the Office of Equal Opportunity Programs/ADA Coordinator/ Title IX Coordinator.
2. If the matter involves a complainant and respondent who are not students, who may be employees or applicants for employment, the OEOP/ADA/Title IX, shall be the initial point of contact. The Title IX Coordinator as an official with authority to institute corrective measures on the complainant’s behalf, must promptly contact the complainant, confidentially, to discuss the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint through the Office of Equal Opportunity Programs/ADA Coordinator/ Title IX Coordinator.

E. Alternate Points of Contact

Employees, students or applicants may, initially, advise any College official (Area Head, Faculty member, Chairperson, etc.) in whom they have confidence, of a complaint of sexual harassment or sex discrimination . The College official who is advised of a complaint or potential complaint of discrimination or harassment may refer students, employees and applicants to the Title IX Coordinator.

F. Statute of limitations

There is no time limit or statute of limitations on a complainant’s decision to file a formal complaint. The process, however, must be concluded in a reasonable time frame selected by the College.

G. Informal Resolution of Complaints

The College, at its discretion, may choose to offer informal resolution options, if both parties give voluntary, informed, written consent. The parties to the Charge may not be required to participate in informal resolution.

Informal resolution may be offered only if a formal complaint is filed. Prior to agreeing to a resolution, at any time, either complainant or respondent may withdraw from informal process and resume the grievance process related to the formal complaint. The informal complaint process may not be used to resolve allegations that an employee sexually harassed a student. The College may not require waiver of

the right to an investigation and settlement of formal complaints as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right. Any person who facilitates an informal resolution must be well trained.

The informal resolution process may be handled by the following offices in consultation with the Title IX Coordinator:

1. In cases where the complainant is a student, an applicant for admission, or the complaint involves a student as respondent, the Office of the Dean of Students in consultation with the Title IX Coordinator;
2. In cases where the complainant is an employee, the Office of the Campus President, District Vice Provost, or designee (collectively referred to in this procedure as the “Area Head”) or the Title IX Coordinator;
3. In cases where the complainant is an applicant for employment, the Title IX Coordinator.

No later than 10 work days after the filing of the complaint, the appropriate office, as referenced above, will meet separately with the complainant and respondent to determine the factual allegations on which the complaint is based and to discuss the complaint procedures. If it is determined that the complaint is suitable for informal resolution, that option will be discussed and offered to the complainant and the respondent, who will be given five work days to decide whether to proceed with informal resolution. If the complaint is deemed by the appropriate office to be unsuitable for informal resolution, or if either party declines to participate in or to make a decision regarding informal resolution, the complaint will then be investigated through the formal grievance process.

At any time during the informal resolution process, either party may elect to terminate the process, and the complaint will then be investigated through the formal grievance process.

Informal resolution should be completed no later than 30 days after the complainant and the respondent have agreed to this process.

If the complaint is successfully resolved, each party will sign a "Memorandum of Understanding" prepared by the Title IX Coordinator, which describes fully the terms of the agreement. A copy of the complaint and the Memorandum of Understanding" will be signed and provided to both complainant and respondent.

H. Formal Complaint

The formal Grievance Process will consist of investigation, a live hearing, development of a determination, and opportunity for appeal.

A “formal complaint” as a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the

school investigate the allegation of sexual harassment.

A complainant, at the time of filing a formal complaint, must be participating in or attempting to participate in the education program or activity of the College. school with which the formal complaint is filed. (current student or applicant for admission)

1. Investigation

The College will investigate all formal charges of sexual harassment.

Upon receipt of a formal Charge, the Title IX Coordinator will send written notice of the allegations to both parties (complainant and respondent).

During the grievance process and when investigating, the burden of gathering evidence and burden of proof must remain the College, not on the parties.

Complainant and Respondent:

Will be provided equal opportunity to present facts, expert witnesses and other exculpatory and exculpatory evidence.

Will not be restricted in the ability to discuss the allegations or gather evidence (e.g., no “gag orders”).

Will have the same opportunity to select an advisor of choice, who may or not be an attorney.

Will receive written notice of scheduled investigative interviews, meetings, or hearings.

The Respondent must receive the written notice with sufficient time to prepare before the initial interview.

The written notice must include the identities of the parties involved; the conduct allegedly constituting sexual harassment; the date of the alleged incident. The written notice must also state that Respondent is presumed not responsible; may have an advisor (attorney); and may inspect and review evidence.

Will be sent, along with their advisors, evidence directly related to the allegations, in electronic format, or hard copy, with at least 10 days for the parties to inspect, review, and respond to the evidence before completion of the investigative report.

Will be sent, along with their advisors, an investigative report that fairly summarizes relevant evidence in electronic format or hard copy, with at least 10 days for the parties to respond.

a. Conditions of Dismissal of Charge

The Investigator must dismiss allegations of conduct that do not a) meet the Title IX definition of sexual harassment or, b) did not occur in a school's education program or activity against a person in the U.S., only for Title IX purposes. (the College may address the conduct, when warranted, in any manner it deems appropriate.

The College may, in their discretion, dismiss a formal complaint or allegations if the complainant, a) informs the Title IX Coordinator, in writing, that, the complainant desires to withdraw the formal complaint or allegations; b) if the respondent is no longer enrolled or employed by the school, or c) if specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College, must give the parties written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal.

The College may, by discretion, consolidate formal complaints where the allegations arise out of the same facts.

Privacy of the complainant's or respondent's medical, psychological, and similar treatment records may not be accessed or used by the Investigator/College for the purpose of investigation, without the party's voluntary, written consent to do so.

2. Live Hearings

Investigations require Live Hearings

The College's grievance process requires Live Hearings.

Live hearings maybe conducted with all parties physically present in the same geographic location or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually.

Decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

If a party does not have an advisor present at the live hearing, the College must provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.

Cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.

At the request of either party, the College must provide for the entire live hearing (including cross-examination) to occur with the parties located in

separate rooms with technology enabling the parties to see and hear each other.

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 or other question, the decision-maker must first determine whether the question is relevant, and explain to the party's advisor any decision to exclude a question as not relevant.

If a party does not have an advisor present at the live hearing, the school must provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.

Cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.

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If a party does not have an advisor present at the live hearing, the school must provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.

If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

The rape shield protections for complainants (as to all recipients whether postsecondary, K-12 or others), clarified to state:

“Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, 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”.

Questions Challenging Credibility Are Allowed Decision-Maker May Preclude Irrelevant questions.

Questions About Complainant’s Prior Sexual Behavior Or Sexual Predisposition Generally Not Allowed.

Schools must create an audio or audiovisual recording, or transcript, of any live hearing.

3. Written Determination

The Decision-Maker’s Written Determination, must, indicate allegations, describe procedural steps; include findings of fact, includes conclusions applying facts to Code of Conduct, includes rationale for conclusion regarding each allegation, describes the Appeal Procedures; and any disciplinary sanctions imposed on the respondent, and whether remedies will be provided to the complainant.

Remedies, which are required to be provided to a complainant when a respondent is found responsible, must be designed to maintain the complainant’s equal access to education.

Complainants must be treated equitably by providing remedies any time a respondent is found responsible.

Respondents are treated equitably by not imposing disciplinary sanctions without following the grievance process prescribed in Title IX.

Sanctions for employees, in accord with College Procedure 2410 Performance Standards and Appeal Procedure for Full-Time Professional Exempt Contractual, Professional Exempt Non-Contractual and Support Non-Exempt Employees, include counseling, written reprimand, suspension without pay.

Sanctions for students, in accord with College Procedure 4030 Student Disciplinary Procedures include Dismissal; Suspension, Final Disciplinary Probation, Disciplinary Probation; Disciplinary Censure; Temporary Suspension; Community Service; Restriction or revocation of privileges; and Restitution.

The written determination must be sent simultaneously to the parties along with information about how to file an appeal.

I. Appeal

Complainant and respondent may appeal a determination regarding responsibility, and from dismissal of a formal complaint or any allegations, on

the following bases: 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/or bias or conflict of interest on the part of the Title IX Coordinator, investigator, or decision-maker that affected the outcome of the Charge. All reasons for appeal must be connected to outcomes.

J. Training

Training of Title IX personnel must include training on the definition of sexual harassment in the Final Rule; the scope of the school's education program or 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.

The College's decision-makers will receive training on any technology to be used at a live hearing; decision-makers and investigators must receive training on issues of relevance, including how to apply the rape shield protections provided only for complainants.

The College will post materials used to train Title IX personnel on the websites, or make materials available for members of the public to inspect.

K. Retaliation

Title IX expressly prohibits retaliation against any individual for exercising Title IX rights.

No school or person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in a Title IX investigation, proceeding, or hearing.

Charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation”.

The school must keep confidential the identity of complainants, respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding.

Complaints alleging retaliation may be filed according to a school's prompt and equitable grievance procedures.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.

V. OTHER PROVISIONS

- A. Employees and students may be accountable for discrimination or harassment under applicable local, state and federal law as well as under College policies. The College, at its sole discretion, may elect to proceed or may elect to stay disciplinary action while other agency proceedings, either civil or criminal in nature, are pending. College disciplinary action will not be subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced.
- B. The College prohibits retaliation against employees, students and applicants who file complaints of discrimination, harassment or whistleblowing.
- C. This procedure does not eliminate other College policies authorizing individual employees to seek relief through established administrative channels to the College President; however, the aggrieved employee may select only one internal process for the purpose of resolving any one complaint alleging discrimination or harassment. The employee's use of these processes may be terminated at any level, if the complaint has been mutually resolved, or, if the employee concurrently seeks relief through sources external to the College. The matter shall be concluded if the complaint is resolved internally or externally.
- D. Employees who wish to file complaints regarding discrimination or harassment external to the College may contact the U.S. Equal Employment Opportunity Commission (EEOC), Miami District Office, at Miami Tower, 100 SE 2nd Street, Suite, 1500, Miami, Florida 33131.
- E. Students who wish to file complaints external to the College may contact the U.S. Department of Education, Office For Civil Rights at www.ed.gov/ocr/complaintintro.html.

Miami Dade College's Title IX Coordinator (Title IX of the Education Amendments of 1972) is the Director of Equal Opportunity Programs/ADA Coordinator. Contact telephone 305.237.2577.

F. Whistleblower Protection

In accordance with applicable federal and state laws, the College and its independent contractors or its subcontractors (Contractors) shall not retaliate against an employee of the College or Contractors for reporting to the appropriate government agencies violations of law, rule, or regulation on the part of the College, its agents or employees that create substantial and specific danger to the public's health, safety, or welfare. Furthermore, the College and Contractors shall not retaliate against their employees who disclose information to an appropriate government agency alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of the College, its

agents or employee, or Contractors. The College and Contractors shall inform their employees that they may file a complaint with the appropriate governmental agency, which may include, but not be limited to, the U.S. Inspector General, Florida Office of Chief Inspector General, the Florida Commission on Human Relations or the Whistleblower's Hotline number at 1-800-543-5353 and shall also report such violations to the EOP/ADA/TITLE IX, who for this purpose has been designated as the "agency inspector general."

The employee may not be discharged, demoted, or otherwise discriminated against as a reprisal for "whistleblowing". These protections cannot be waived by any agreement, policy, form, or condition of employment.

Sexual Harassment

Sexual Assault, Dating Violence, Domestic Violence and Stalking

Grievance Process

Governed by Provisions of the Department of Education's Title IX of the Education Amendments

The College is committed to providing an institutional environment where all persons may pursue their studies, careers, duties, and activities in an atmosphere free from sexual harassment.

These protections apply to any Miami Dade College employee, student, applicant or other participant in the College's education programs or activities (on-campus or off-campus) who believe they are victims of sexual harassment in the United States.

The College will investigate every formal complaint of sexual Harassment.

A. Reporting

A Complainant may report sexual harassment concerns to the College's Title IX Coordinator, or to College official with authority to institute corrective measures on the Complainant's behalf.

Any third party as well as the complainant may report sexual harassment.

Parents and guardians (do not become complainants or respondents) have the legal rights of to act on behalf of parties, including by filing formal complaints in Title IX matters.

A complaint may be filed anonymously.

Any person may report sex discrimination, including sexual harassment whether or not the person reporting is the alleged victim of sex discrimination or sexual harassment. Reports may be made in person, by mail, by telephone, or by e-mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the

Title IX Coordinator receiving the person's verbal or written report. Reports may be made at any time, including during non-business hours, by using the telephone number or e-mail address, or by mail to the office address, listed for the Title IX Coordinator.

- B. All complaints must be in writing and on the Miami Dade College Discrimination or Harassment Charge Form, which may be obtained from the EOP/ADA/Title IX or from the College's website (www.mdc.edu) and be filed in a timely manner.

The Charge Form should include the complainant's name and signature; describe the act or acts complained of; identify the person or persons purportedly responsible (the "Respondent"); indicate the date(s) or approximate date(s) on which the act or acts occurred; and the names and contact information of potential witnesses. The complaint should also include the effect the alleged acts have had on the complainant; complainant's desired resolution; and any other information the complainant believes is relevant. Complainants, in addition to or instead of filing with OEOP/ADA/Title IX, may file a formal charge of discrimination with a state or federal agency authorized by law to receive such claims.

- C. The Title IX Coordinator or to an official with authority to institute corrective measures on the recipient's behalf, must promptly contact the complainant, confidentially, to discuss the availability of supportive measures, with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint through the Office of Equal Opportunity Programs/ADA/Coordinator/Title IX Coordinator.

- D. Initial Point of Contact

1. If the matter involves a student or applicant for admission, whether as a complainant or a respondent, the Office of the Dean of Students of each campus or a designee of their professional staff ("collectively referred to in this procedure as the "Dean's Office") may be the initial point of contact. The Dean, as an official with authority to institute corrective measures on the complainant's behalf, must promptly contact the complainant, confidentially, to discuss the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint through the Office of Equal Opportunity Programs/ ADA Coordinator/ Title IX Coordinator.
2. If the matter involves a complainant and respondent who are not students, who may be employees or applicants for employment, the OEOP/ADA/Title IX, shall be the initial point of contact. The Title IX Coordinator as an official with authority to institute corrective measures on the complainant's behalf, must promptly contact the complainant, confidentially, to discuss the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint through the Office of Equal Opportunity Programs/ ADA Coordinator/ Title IX Coordinator.

- E. Alternate Points of Contact

Employees, students or applicants may, initially, advise any College official (Area

Head, Faculty member, Chairperson, etc.) in whom they have confidence, of a complaint of sexual harassment or sex discrimination . The College official who is advised of a complaint or potential complaint of discrimination or harassment may refer students, employees and applicants to the Title IX Coordinator.

F. Statute of limitations

There is no time limit or statute of limitations on a complainant's decision to file a formal complaint. The process, however, must be concluded in a reasonable time frame selected by the College.

G. Informal Resolution of Complaints

The College, at its discretion, may choose to offer informal resolution options, if both parties give voluntary, informed, written consent. The parties to the Charge may not be required to participate in informal resolution.

Informal resolution may be offered only if a formal complaint is filed. Prior to agreeing to a resolution, at any time, either complainant or respondent may withdraw from informal process and resume the grievance process related to the formal complaint. The informal complaint process may not be used to resolve allegations that an employee sexually harassed a student. The College may not require waiver of the right to an investigation and settlement of formal complaints as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right. Any person who facilitates an informal resolution must be well trained.

The informal resolution process may be handled by the following offices in consultation with the Title IX Coordinator:

1. In cases where the complainant is a student, an applicant for admission, or the complaint involves a student as respondent, the Office of the Dean of Students in consultation with the Title IX Coordinator;
2. In cases where the complainant is an employee, the Office of the Campus President, District Vice Provost, or designee (collectively referred to in this procedure as the "Area Head") or the Title IX Coordinator;
3. In cases where the complainant is an applicant for employment, the Title IX Coordinator.

No later than 10 work days after the filing of the complaint, the appropriate office, as referenced above, will meet separately with the complainant and respondent to determine the factual allegations on which the complaint is based and to discuss the complaint procedures. If it is determined that the complaint is suitable for informal resolution, that option will be discussed and offered to the complainant and the respondent, who will be given five work days to decide whether to proceed with informal resolution. If the complaint is deemed by the appropriate office to be unsuitable for informal resolution, or if either party declines to participate in or to make a decision regarding informal resolution, the complaint will then be investigated

through the formal grievance process.

At any time during the informal resolution process, either party may elect to terminate the process, and the complaint will then be investigated through the formal grievance process.

Informal resolution should be completed no later than 30 days after the complainant and the respondent have agreed to this process.

If the complaint is successfully resolved, each party will sign a "Memorandum of Understanding" prepared by the Title IX Coordinator, which describes fully the terms of the agreement. A copy of the complaint and the Memorandum of Understanding" will be signed and provided to both complainant and respondent.

H. Formal Complaint

The formal Grievance Process will consist of investigation, a live hearing, development of a determination, and opportunity for appeal.

A "formal complaint" as a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment.

A complainant, at the time of filing a formal complaint, must be participating in or attempting to participate in the education program or activity of the College. school with which the formal complaint is filed. (current student or applicant for admission)

1. Investigation

The College will investigate all formal charges of sexual harassment.

Upon receipt of a formal Charge, the Title IX Coordinator will send written notice of the allegations to both parties (complainant and respondent).

During the grievance process and when investigating, the burden of gathering evidence and burden of proof must remain the College, not on the parties.

Complainant and Respondent:

Will be provided equal opportunity to present facts, expert witnesses and other exculpatory and exculpatory evidence.

Will not be restricted in the ability to discuss the allegations or gather evidence (e.g., no "gag orders").

Will have the same opportunity to select an advisor of choice, who may or not be an attorney.

Will receive written notice of scheduled investigative interviews, meetings, or hearings.

The Respondent must receive the written notice with sufficient time to prepare before the initial interview.

The written notice must include the identities of the parties involved; the conduct allegedly constituting sexual harassment; the date of the alleged incident. The written notice must also state that Respondent is presumed not responsible; may have an advisor (attorney); and may inspect and review evidence.

Will be sent, along with their advisors, evidence directly related to the allegations, in electronic format, or hard copy, with at least 10 days for the parties to inspect, review, and respond to the evidence before completion of the investigative report.

Will be sent, along with their advisors, an investigative report that fairly summarizes relevant evidence in electronic format or hard copy, with at least 10 days for the parties to respond.

a. Conditions of Dismissal of Charge

The Investigator must dismiss allegations of conduct that do not a) meet the Title IX definition of sexual harassment or, b) did not occur in a school's education program or activity against a person in the U.S., only for Title IX purposes. (the College may address the conduct, when warranted, in any manner it deems appropriate.

The College may, in their discretion, dismiss a formal complaint or allegations if the complainant, a) informs the Title IX Coordinator, in writing, that, the complainant desires to withdraw the formal complaint or allegations; b) if the respondent is no longer enrolled or employed by the school, or c) if specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College, must give the parties written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal.

The College may, by discretion, consolidate formal complaints where the allegations arise out of the same facts.

Privacy of the complainant's or respondent's medical, psychological, and similar treatment records may not be accessed or used by the Investigator/College for the purpose of investigation, without the party's voluntary, written consent to do so.

2. Live Hearings

Investigations require Live Hearings

The College's grievance process requires Live Hearings.

Live hearings maybe conducted with all parties physically present in the same geographic location or, at the College's discretion, any or all parties, witnesses, and

other participants may appear at the live hearing virtually.

Decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

If a party does not have an advisor present at the live hearing, the College must provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.

Cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.

At the request of either party, the College must provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.

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 or other question, the decision-maker must first determine whether the question is relevant, and explain to the party's advisor any decision to exclude a question as not relevant.

If a party does not have an advisor present at the live hearing, the school must provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.

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If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching

a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

The rape shield protections for complainants (as to all recipients whether postsecondary, K-12 or others), clarified to state:

“Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, 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”.

Questions Challenging Credibility Are Allowed Decision-Maker May Preclude Irrelevant questions.

Questions About Complainant's Prior Sexual Behavior Or Sexual Predisposition Generally Not Allowed.

Schools must create an audio or audiovisual recording, or transcript, of any live hearing.

3. Written Determination

The Decision-Maker's Written Determination, must, indicate allegations, describe procedural steps; include findings of fact, includes conclusions applying facts to Code of Conduct, includes rationale for conclusion regarding each allegation, describes the Appeal Procedures; and any disciplinary sanctions imposed on the respondent, and whether remedies will be provided to the complainant.

Remedies, which are required to be provided to a complainant when a respondent is found responsible, must be designed to maintain the complainant's equal access to education.

Complainants must be treated equitably by providing remedies any time a respondent is found responsible.

Respondents are treated equitably by not imposing disciplinary sanctions without following the grievance process prescribed in Title IX.

Sanctions for employees, in accord with College Procedure 2410 Performance Standards and Appeal Procedure for Full-Time Professional Exempt Contractual, Professional Exempt Non-Contractual and Support Non-Exempt Employees, include counseling, written reprimand, suspension without pay.

Sanctions for students, in accord with College Procedure 4030 Student Disciplinary Procedures include Dismissal; Suspension, Final Disciplinary Probation, Disciplinary

Probation; Disciplinary Censure; Temporary Suspension; Community Service; Restriction or revocation of privileges; and Restitution.

The written determination must be sent simultaneously to the parties along with information about how to file an appeal.

I. Appeal

Complainant and respondent may appeal a determination regarding responsibility, and from dismissal of a formal complaint or any allegations, on the following bases: 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/or bias or conflict of interest on the part of the Title IX Coordinator, investigator, or decision-maker that affected the outcome of the Charge. All reasons for appeal must be connected to outcomes.

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| | 6/26/2020 |
| PRESIDENT | DATE |