

# PRCC Procedures for the Resolution of Allegations of Sexual Misconduct

## Who Needs to Know This Procedure

All members of the College community. This includes students, faculty, staff, vendors, independent contractors, and visitors.

## Definitions

**Duty to Report-** Applies to all employees, who are obligated to report all incidents in violation of the College's Sexual Misconduct Policy, either personally observed or disclosed, to the Title IX Coordinator.

**Employee** – Any person employed by Pearl River Community College including staff, faculty, and administrative personnel.

**Formal Resolution-** Resolution of a complaint by the Sexual Misconduct Investigative Team (SMIT).

**Informal Resolution-** Resolution of a complaint by the Title IX Coordinator or designee.

**Process Advisor-** An individual assigned to advise the Reporting and Responding Parties during the formal investigative hearing. Process advisors serve in an advisory capacity only and do not participate in the formal investigative hearing.

**Reporting Party-** An individual who alleges a violation of the College's Sexual Misconduct Policy.

**Responding Party-** An individual who is alleged to have violated the College's Sexual Misconduct Policy.

**Responsible Employees-** All PRCC employees are responsible employees and have a duty to report. Responsible employees must promptly report incidents of sexual misconduct if they become aware or suspect an incident occurring (within 24 hours/next business day), and **must** include personally identifying information and all related details pertaining to the incident when making a report.

**Support Person-** An individual selected by a Reporting Party or a Responding Party to accompany them and offer support throughout the Title IX process.

**Student** – A person enrolled at the College, either full-time or part-time, or a person seeking admission to or accepted to the College for admission.

**Third Party-** This includes vendors, visitors, and workers who are contracted/employed by the College.

## Procedure

### TITLE IX COORDINATOR

The President has appointed a Title IX Coordinator for the College, who is identified previously and listed on the Sexual Misconduct website <http://www.prcc.edu/campus-police/titleix>. Title IX Coordinator duties and responsibilities include, but are not limited to:

1. Oversight of policies and procedures that apply to complaints or reports of sexual misconduct and sex discrimination including sexual assault, sexual abuse, sexual harassment, rape, and other forms of

nonconsensual sexual conduct including the offenses of intimate partner violence, and stalking by **employees, students, or third parties**;

2. Informing victims of alleged sexual misconduct of the right to file a formal complaint or to seek informal resolution and the process for each;
3. Informing those accused of sexual misconduct of the right to file a response to a formal complaint or to participate in informal resolution, if offered, and the process for each;
4. Appointment of Deputy Title IX Coordinators as needed to assist in Title IX responsibilities;
5. Designation and appointment of employees to serve as members of the SMIT;
6. Supervision of the training and functional operation of SMIT members, which includes their investigation of sexual misconduct complaints and reports;
7. Providing and/or facilitating such training for the College community as is required to comply with the mandates of the College's Sexual Misconduct Policy, and federal and state law;
8. Making initial assessments of all sexual misconduct claims to determine if there is reasonable cause to believe there has been a violation of the College's Sexual Misconduct Policy to invoke the processes of this Procedure;
9. Facilitation of informal resolution proceedings in appropriate circumstances; and
10. Facilitate periodic campus climate checks to assess the effectiveness of efforts to ensure that the College is free from sexual misconduct.

## **SEXUAL MISCONDUCT INVESTIGATIVE TEAM (SMIT)**

The Sexual Misconduct Investigative Team consists of employees of the College who represent the various segments of the College, including staff, faculty and campuses. Members shall receive specific training related to their responsibilities as investigators of complaints or reports of sexual misconduct and shall be assigned to investigations on a rotating basis by the Title IX Coordinator.

## **REPORTING SEXUAL MISCONDUCT/AMNESTY**

1. Complaints may be made in writing by completing the Sexual Misconduct Complaint Form. This form is available on the College's sexual misconduct website <http://www.pccc.edu/campus-police/titleix>. Reports can also be made directly to the Title IX Coordinator.
2. An alleged victim does not have to decide whether or not to request any specific action by the College at the time the report is made, nor is there a time limit on reporting. The College is committed to supporting the rights of a person reporting an allegation of sexual misconduct to make an informed choice among options and services available.
3. While an investigation may begin on the basis of an oral complaint or report, the alleged victim is strongly encouraged to file a written complaint. Alleged victims are urged to submit a written and signed complaint setting out the details of the conduct which is the subject of the complaint, including the alleged victim's name, and contact information; the name of the person directly responsible for the

alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witness(es) to the occurrence(s); the resolution sought; and any documents or information that are relevant to the complaint.

4. Persons who have been victims of either sexual assault or sexual violence are encouraged to immediately contact the Campus Police Department in Poplarville at 601-403-1300 or by dialing 911 and seeking immediate medical attention even if they do not wish to pursue criminal charges or otherwise pursue a complaint against their attacker. Contact the Forrest County Campus Police Department at 601-554-5513 or Hancock Center Campus Police at 228-252-7001.
5. **Anonymous Reporting:** Although the College encourages an alleged victim to talk with someone directly, the College does provide an anonymous report form on the College's sexual misconduct website <http://www.pccc.edu/campus-police/titleix>. However, the College's ability to respond effectively may be limited by the level of information provided and/or the anonymity of the complaint. All anonymous reports will be referred to the Title IX Coordinator and/or Campus Police Department.

## AMNESTY

The health and safety of every College community member at Pearl River Community College is of the utmost importance. The College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time a sexual misconduct incident occurs may be hesitant to report such incident due to fear of potential consequences for their own conduct. The College strongly encourages students to report incidents of sexual misconduct to campus officials. A bystander reporting in good faith or an alleged victim reporting sexual misconduct to College officials or law enforcement will not be subject to campus conduct action for violations of alcohol and/or drug policies occurring at or near the time of the sexual misconduct.

## CONFIDENTIALITY AND PRIVACY CONSIDERATIONS

1. **Confidential Resources:** The College encourages every student or employee who has experienced sex discrimination, sexual assault, sexual harassment, or other forms of sexual misconduct to talk with someone and report the incident. This facilitates an appropriate College response and ensures that the person receives care and support. Recognizing that it may be difficult for a person to come forward after such an event, the purpose of this section is to provide information about reporting options, so individuals may make an informed decision about where to turn for support and assistance.
2. Employees' ability to maintain confidentiality at this College differs based on their role and responsibilities on campus:
  - a. **Confidential Resources:** Some employees are required to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication."
  - b. **Responsible Employees:** Employees not designated as confidential resources are required to report **all** the details of an incident (including the identities of both the alleged victim and alleged accused) to the Title IX coordinator. A report to these employees (called "responsible employees")

constitutes a report to the College—and generally obligates the College to investigate the incident and take appropriate steps to address the situation.

**3. Confidential Reporting:**

Some College employees are confidential resources. These individuals are not required to report incidents of sexual misconduct to the College. If a Reporting Party would like the incident to be kept confidential, the Reporting Party may speak with the following confidential resources:

- a. On-campus (Rachel Harris [rharris@prcc.edu](mailto:rharris@prcc.edu))
- b. On-campus health service provider (Susie Hall [kshall@prcc.edu](mailto:kshall@prcc.edu))
- c. Off-campus (non-employees)
  - Licensed professional counselors
  - Local rape crisis counselors
  - Domestic violence resources
  - Local or state assistance agencies
  - Clergy/Chaplains

4. While employees not designated as responsible employees may maintain a person's request for confidentiality, in special circumstances, they may have reporting or other obligations under state law, such as mandatory reporting to law enforcement when a communication reveals the contemplation of a crime or harmful act, or intent to commit suicide, and the requirement to testify if subpoenaed in a criminal case. *See* Miss. Code Ann. § 73-30-17.

**5. Responsible Employees:**

Unless designated as a confidential resource, all other College employees, both faculty and professional staff, are responsible employees. A "responsible employee" is a College employee who is required to share all known details (names, dates, times, locations, witnesses etc.) of incidents or suspected incidents of sexual misconduct and gender-based discrimination with the Title IX Coordinator. When an alleged victim tells a responsible employee about an incident of sexual misconduct, the College will take immediate and appropriate steps to investigate what happened to resolve the matter promptly and equitably, and prevent its recurrence. Examples of responsible employees include all:

- Administrators
- Faculty
- Supervisory Staff
- Residential Life Staff
- Any PRCC employee whom an individual could reasonably believe has the duty to report incidents of sexual misconduct

6. Before an alleged victim reveals any information to a responsible employee, the employee should ensure that an alleged victim understands the employee's reporting obligations – and, if an alleged victim wants to maintain confidentiality, direct them to confidential resources. If an alleged victim wants to tell the responsible employee what happened but also maintain confidentiality, the employee should inform them that the College will consider the request, but cannot guarantee that the College will be able to honor it.
7. Reporting to a responsible employee still affords privacy to the reporter/alleged victim, and only those College officials who need to know will be told. A responsible employee should not share information with law enforcement without an alleged victim's consent or unless an alleged victim has also reported the alleged incident to law enforcement.
8. Although a report to a responsible employee triggers an inquiry or investigation, the alleged victim making the report, hereafter referred to as the Reporting Party, is not required to participate in the investigation process in order for the College to continue its investigation.
9. **Campus Security Authorities**  
Under the Clery Act, colleges are required to maintain statistics of serious crimes reported on and near campus, including incidents reported under this Policy. The College is required under this Act to appoint Campus Security Authorities (CSAs) for reporting purposes. Accordingly, CSAs are responsible employees and must complete a CSA report, upon receiving notice of an incident of sexual misconduct. CSAs may have additional responsibilities under the Clery Act.
10. **Timely Warnings and Emergency Notifications**  
Parties reporting sexual misconduct should be aware that under the Clery Act, the College must issue timely warnings and emergency notifications for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the College community on any campus location. The College will ensure an alleged victim's name and other identifying information is not disclosed, while still providing enough information for College community members to make safety decisions in light of the potential danger. As appropriate, timely warnings and/or emergency notifications may be targeted at only a segment or segments of the campus community that is at risk.  
  
An immediate notification for a confirmed emergency or dangerous situation may not be issued if doing so will compromise efforts to: assist an alleged victim, contain the emergency, respond to the emergency, or otherwise mitigate the emergency.

## **REQUESTING CONFIDENTIALITY: HOW THE COLLEGE WILL WEIGH THE REQUEST AND RESPOND**

1. A Reporting Party may report an incident of sexual assault, sex discrimination, sexual harassment, or other forms of sexual misconduct to a responsible employee while requesting confidentiality or that no

investigation be conducted or disciplinary action taken. In that case, the College must weigh the request against its obligation to provide a safe, non-discriminatory environment for the College community, including the Reporting Party.

2. If the Reporting Party requests confidentiality, the College will take immediate action as necessary to protect and assist the Reporting Party. While confidentiality will be maintained to the extent permitted in the course of the investigation, no disciplinary actions can be taken against the accused individual, hereinafter referred to as the Responding Party, unless the person bringing the complaint consents to be identified to the accused individual. Title IX protections for the Reporting Party and equitable due process for the accused individual will be paramount throughout the investigative process.
3. When weighing a Reporting Party's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors. The presence of one or more of these factors could lead the College to investigate and, if appropriate, pursue disciplinary action and/or contact law enforcement. If none of these factors are present, the College will likely respect the Reporting Party's request for confidentiality. These range of factors include the following:
  - The increased risk that the Responding Party will commit additional acts of sexual or other violence, such as:
    - Whether there have been other sexual violence complaints about the same individual
    - Whether the individual has a history of arrests or records from a prior school indicating a history of violence
    - Whether the individual threatened further sexual violence or other violence against the Reporting Party or others
    - Whether the sexual violence was committed by multiple perpetrators
    - Whether the sexual violence was perpetrated with a weapon
    - Whether the Reporting Party is a minor
    - Whether the College possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence); and
    - Whether the Reporting Party's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group
4. If the College honors the request for confidentiality, the Reporting Party should understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the Responding Party may be limited.
5. If the College determines that it cannot maintain a Reporting Party's confidentiality, the College will inform the individual prior to starting an investigation and will, to the extent possible, only share information with persons responsible for handling the College's response to the report of sexual misconduct.

6. Whether a report is confidential or not, when a Reporting Party reports an allegation of sexual misconduct, the College will remain ever mindful of the well-being of the Reporting Party. The College will respond to any allegation from the Reporting Party of retaliation. The College will also support the Reporting Party and take any needed action to protect and assist them consistent with the Reporting Party's wishes. A variety of interim measures are available to the Reporting Party and outlined in this procedure. The Title IX Coordinator is available to assist the Reporting Party in determining what measures are helpful or needed and will manage the implementation of such interim measures.
7. **Privacy Considerations:** In the event that the Title IX Coordinator determines confidentiality cannot be guaranteed, the College is committed to protecting the privacy of all individuals involved in a report of sexual assault, sex discrimination, sexual harassment, or other forms of sexual misconduct. Information related to a report to the College of such misconduct will be kept private by the College unless disclosure is required by law. Thus, it will be shared only with those persons with a legitimate interest in order to assist in the investigation and/or in the resolution of the complaint. Under no circumstances will the College release the name of the Reporting Party to the general public without the Reporting Party's expressed consent.

## **IMMEDIATE ACTIONS BY COLLEGE**

1. The Title IX Coordinator, Director of Human Resources, Vice President for Poplarville Campus and Student Services, and the Campus Police Department, working in coordination with other necessary College administrators, may take immediate interim actions prior to resolution of an allegation. In addition, depending on a Reporting Party's allegations or circumstances of a case these interim measures may also be necessary to protect the safety of the College community. These measures may change over time and the College will make every effort to avoid depriving any student of their education. Such actions are designed to enable students or employees with complaints, and witnesses, to continue studies or duties of employment, and to ensure the integrity of an investigation. The Title IX Coordinator will communicate regularly with the parties to ensure interim measures remain necessary and effective.

These actions may include:

- Interim suspension of a Responding Party student or employee
- Emotional support/counseling services
- No-contact/No Trespass/Proximity orders
- Escorts to ensure safe movement on campus
- Modifying class or work schedules as necessary
- Making alternative housing, workplace, or transportation arrangements
- Addressing other academic or workplace concerns (e.g., assignments, grades, leaves of absence, and withdrawal)
- Involving law enforcement to assist in maintaining order or safety

- Any other appropriate action warranted by the circumstances
2. Violations of these protective actions will constitute related offenses which may lead to additional disciplinary action.

## **RESOURCES AND SERVICES**

Campus and community services are available, even if College or criminal reports are not made. The College strongly encourages anyone who believes they have been the victim of sexual misconduct to seek assistance and care through confidential crisis intervention, healthcare, and counseling. Individuals should keep in mind that medical examinations are time-sensitive and are critical in preserving evidence of sexual assault so options can be considered at a later time. For a list of available services, visit the sexual misconduct site at <http://www.pccc.edu/campus-police/titleix>.

## **TIMELINE FOR PROCESS**

1. Generally, complaints of sexual misconduct will be investigated and fully decided within sixty (60) business days (i.e. days when the College is open) of the date the Title IX Coordinator is notified of the complaint, unless there are extenuating circumstances such as uncooperative witnesses, break periods, and periods when the College is closed.
2. The College has an obligation to investigate complaints or reports of sexual misconduct regardless of whether or not law enforcement is conducting a separate criminal investigation. However, the Title IX Coordinator will comply with law enforcement requests for cooperation. This may require the Title IX Coordinator to temporarily suspend the fact-finding aspect of the Title IX investigation while law enforcement is in the process of gathering evidence. The College will promptly resume its investigation as soon as the Title IX Coordinator is notified by the law enforcement agency that it has completed the evidence gathering process, which typically takes between three (3) to ten (10) calendar days, although the delay in the College's investigation may be longer in certain instances.

## **PRELIMINARY INVESTIGATION**

Upon receiving a complaint or report of sexual misconduct, the Title IX Coordinator will make an initial assessment of the complaint to determine if there is reasonable cause to believe the College's Sexual Misconduct Policy was violated. If the Title IX Coordinator determines there is reasonable cause, the Title IX Coordinator will proceed with a formal investigation or an informal resolution.

1. The preliminary investigation will be initiated, conducted, and completed generally within five (5) business days from the date the complaint or report is received by the Title IX Coordinator.
2. If the Title IX Coordinator finds (a) there is no reasonable cause to believe that the facts in the complaint or the report constitute a violation of the College's sexual misconduct policy; or (b) the complaint fails to allege facts that suggest sexual misconduct; or (c) the appropriate resolution or remedy has already been achieved, the Coordinator shall close the investigation and notify the Reporting Party of the findings and that the matter is closed within two (2) business days.

3. If the Title IX Coordinator determines there is reasonable cause to believe a violation of the College's Sexual Misconduct Policy has occurred, a formal investigation or an attempt at informal resolution will be initiated within two (2) business days.

## **FIRST MEETING WITH REPORTING AND RESPONDING PARTIES**

1. After receiving a report of sexual misconduct, the Title IX Coordinator will notify the Reporting Party to arrange a meeting in person. After meeting with the Reporting Party, and determining there is reasonable cause to believe a violation of the Sexual Misconduct Policy has occurred, the Title IX Coordinator will provide written notice to the Responding Party of the allegations and arrange a meeting in person to review the complaint. Both parties will be informed of their option to have a support person accompany them to any meeting or interview related to the Title IX resolution process. During the first meeting the Title IX Coordinator will:
  - Discuss the nature of the complaint;
  - Inform both parties of their rights;
  - Explain the prohibition against retaliation;
  - Explain the process for informal resolution;
  - Explain the process for investigating complaints and appeal rights;
  - Explain the availability of interim measures and campus resources;
  - Provide a copy of the College's policy and procedures;
  - Discuss evidence/documentation and the importance of maintaining any evidence for investigation; and
  - Discuss support persons and advisors throughout the resolution process.
2. After reviewing the complaint and meeting with the Title IX Coordinator, the Responding Party may choose to end the complaint resolution process by accepting responsibility for the conduct alleged in the complaint. If the Responding Party accepts full responsibility for the conduct alleged in the complaint, the Responding Party will sign a *Waiver of Rights Form*. By signing this form, the Responding Party waives their right to a formal investigative hearing. The Title IX Coordinator will forward the complaint to the appropriate sanctioning official. If the Responding Party disputes any part of the allegations outlined in the complaint, the matter will proceed to a formal investigative hearing. At any point in the process, the Responding Party may accept responsibility for the conduct alleged in the complaint. In such cases, the appropriate Sanctioning Official will impose sanctions for violations of the Sexual Misconduct Policy.

## **INFORMAL RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS**

1. Employees, students, or third-party workers on campus who believe they have experienced sexual misconduct may have the option of proceeding using an informal resolution process.

2. The informal resolution process/mediation is not an option for cases of sexual assault, violent behavior of any kind, and those cases involving a student complaining of sexual harassment against an employee in a position of authority over the student. In cases involving allegations of sexual assault or violence, the informal process/mediation is not appropriate even on a voluntary basis by the Reporting Party. The formal resolution process is an available option for sexual misconduct or sex discrimination of any nature.
3. A Reporting Party who chooses to proceed informally should notify and inform the Title IX Coordinator of a decision to proceed informally, when filing a report of sexual misconduct (or as soon as possible after making the report).
  - a. Resolution at the informal level will be facilitated by the Title IX Coordinator, or a designee, and will include a written, signed agreement in which the parties involved agree to the resolution including any outcome imposed. Typically, an informal resolution will be completed and resolved within five (5) to ten (10) business days. Either party may stop participation in the informal resolution process and may request a formal investigation at any time prior to the execution of the written, signed informal resolution agreement. Examples of informal resolution outcomes include, but are not limited to: a behavioral contract between parties, referrals to counseling programs, conducting educational training, and mediation.
  - b. To the extent the parties are able to achieve a satisfactory resolution of the complaint through the informal resolution process, the complaint will be considered resolved. Since both parties will have agreed to the resolution, there is no appeal allowed after an informal resolution.
  - c. In those cases in which a mutually satisfactory informal resolution cannot be achieved or in those cases in which a party did not comply with the mandates of the informal resolution, the formal resolution process will commence.

## **PARTICIPATION OF SUPPORT PERSONS AND PROCESS ADVISORS**

1. Reporting and Responding Parties are entitled to a support person of their choosing to accompany them at every stage in the Title IX resolution process. The support person may be a friend, mentor, family member, attorney, or any other supporter the Reporting Party and Responding Party chooses who is both eligible and available. Persons who will be called as witnesses may not serve as support persons. Reporting and Responding Parties are not required to use the same Support Person throughout, and may make a change at any time during the resolution process. In addition, the College will make provisions to allow a support person who cannot attend a scheduled meeting to attend by telephone, video, and/or virtual meeting technologies as may be convenient and available.
2. All support persons, regardless of their profession, are subject to the same campus rules. Support persons may not question witnesses, offer arguments, interfere, or present on behalf of the Reporting Party and Responding Party in meetings or during investigative hearings. Support persons may confer quietly with the Reporting Party or Responding Party as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their support person should request breaks or step out of meetings to allow for private conversation.

3. Support persons who step out of their role in any Title IX proceeding will receive a warning. If they continue to disrupt or otherwise fail to respect the limits of their support person role, they will be asked to leave the proceeding. When a support person is removed from a Title IX meeting or hearing, that proceeding will generally continue without the support person present. Subsequently, the Title IX Coordinator will determine whether the support person may be reinstated, may be replaced by a different support person, or whether the party will forfeit the right to a support person for the remainder of the process.
4. The College can share records or documentation with Support Persons if Reporting and Responding Parties complete the consent form authorizing such sharing. Support persons are expected to maintain privacy of all shared documents, and will sign a confidentiality agreement stating so. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any support person who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.
5. Reporting and Responding Parties must provide the Title IX Coordinator with the names of their support person at least two (2) business days before the date of their first meeting with the SMIT panel. The parties must provide subsequent timely notice to the Title IX Coordinator if they change support persons at any time. No audio or video recording of any kind other than as required by institutional procedure is permitted during meetings with campus officials.
6. The College also maintains a pool of trained (non-attorney) process advisors who are assigned to the parties. The Title IX Coordinator assigns an advisor to each party who can assist parties throughout the investigative process. This advisor does not participate in the formal hearing. Process advisors help Reporting and Responding Parties prepare for meetings, and are expected to advise ethically, with integrity and in good faith. A Reporting and Responding Party may elect to change process advisors at any time during the process.

## **FORMAL INVESTIGATIVE HEARING**

1. Upon a determination by the Title IX Coordinator that there is reasonable cause to believe there has been a violation of the College's Sexual Misconduct Policy and that an informal resolution is not achievable or appropriate, a formal investigation (also known as a formal investigative hearing) will be initiated generally within ten (10) business days. The Title IX Coordinator will also set the target date for the completion of the investigation and notify the Reporting and Responding Parties that the investigation is proceeding.
2. Within three (3) business days after meeting with the Reporting Party the Title IX Coordinator shall prepare and send a *Notice of Investigation* to the Responding Party, which will include a brief description of the alleged misconduct, location and date of the alleged incident, a copy of the Reporting Party's statement, the specific Sexual Misconduct Policy provisions alleged to have been violated, a brief description of the investigative process, and information regarding pertinent dates and timeframes relative to the investigation.

When an employee is the Responding Party, a notice of a formal complaint filed will be sent, for

notification purposes only, to the employee's immediate supervisor and the appropriate Vice President. When a student is the Responding Party, notification of such will be sent to the Vice President for Poplarville Campus and Student Services. The same parties will be notified of the outcome of the formal complaint once the investigative process has ended.

3. The Title IX Coordinator shall select three (3) members of the Sexual Misconduct Investigative Team (SMIT) to investigate the complaint via a formal investigative hearing. All investigative hearings will be thorough, reliable and impartial. SMIT panelists will conduct interviews with all relevant parties and witnesses, and obtain available evidence and identify sources of expert information, if necessary. The goal of the investigative hearing is to provide an equitable resolution via an equitable process, respecting the civil and legal rights of all parties.
4. During the investigative hearing, the three-member SMIT panel will do the following:
  - Interview the Reporting Party and Responding Party separately (the Reporting Party and the Responding Party are allowed to provide a written statement to the SMIT Panel).
  - Provide both parties with an opportunity to respond to questions.
  - Provide both parties with an opportunity to present information, including offering names of witnesses or other persons with relevant information.
  - Interview those persons identified by both parties, and any other individuals who may have relevant knowledge of the alleged incident.
  - Collect documentation and information from the Reporting Party, Responding Party, and witnesses.
  - Request access to premises, records, and documents (electronic or otherwise) if it is deemed relevant to the complaint.
  - May seek clarification from persons participating in the investigation regarding the incident or their statement.
5. During the investigation, the SMIT panel and/or the Title IX Coordinator will provide regular/weekly updates to both the Reporting Party and the Responding Party, as appropriate.
6. The formal investigative hearing will be completed expeditiously, normally within 10-14 business days of the completion of the preliminary inquiry by the Title IX Coordinator. Investigations may take longer when, for example, initial reports fail to provide direct first-hand information or in complex situations. Upon completion of the investigation, the SMIT panel shall share a summary of the evidence gathered to both the Reporting and Responding Party for review. This step provides both parties with an opportunity to state a written rebuttal or provide additional information. Both parties will receive five (5) business days to review and respond to their own statement and summary of evidence. If necessary, the SMIT panel will prepare a revised summary of evidence based on the parties' responses to the initial summary, within five (5) business days. The SMIT panel will then reach a finding by majority vote, based upon a preponderance of the evidence (a more likely than not standard), regarding whether or not a violation of the College's Sexual Misconduct Policy occurred. The SMIT panel will prepare a written **final** report within ten (10) business days after receiving feedback from both parties or completion of an additional

investigation, summarizing the findings of the investigation. This final report will then be forwarded to the Title IX Coordinator.

7. If there is a finding of no violation of the College Sexual Misconduct Policy, the Title IX Coordinator will give written notice of the findings and each party's respective appeal rights to the Reporting Party, Responding Party, and appropriate College Administrators within three (3) business days of receiving the SMIT panel's finding.
8. If there is a finding of violation of the College's Sexual Misconduct Policy, the Title IX investigation process ends, and the sanctioning process will begin within three (3) business days of the SMIT panel's finding. The parties may submit an impact statement describing the impact of the incident/case on them. These statements are given to the Sanctioning Official.
9. **Pending Complaints:** The College reserves the right to conduct and complete an investigation and any subsequent proceedings regardless of the participation of the Reporting Party or the Responding Party. If a student or employee accused of a violation of the College's Sexual Misconduct Policy separates from the College while a complaint is pending, the investigation and any subsequent proceedings will proceed to conclusion even in the student's or employee's absence. If the Responding Party is found to have violated the Sexual Misconduct Policy, as a condition of readmission, in addition to any other conditions, that person must satisfy all sanctions imposed upon them in their absence. If a College employee is found to have violated the Sexual Misconduct Policy, as a condition of re-employment, in addition to any other conditions, that person must satisfy all sanctions imposed upon them in their absence. The Title IX Coordinator will act to promptly and effectively remedy the effects of the conduct upon the Reporting Party and the campus community.

## **SANCTIONING OFFICIAL**

When a formal investigation determines that a violation of the College's Sexual Misconduct Policy has, more likely than not, occurred, the Title IX Coordinator will refer the matter to the appropriate sanctioning official to determine the sanctions.

1. For sanctions involving a student as the Responding Party, the Sanctioning Official shall be the Vice President for Poplarville Campus and Student Services or a designee.
2. For sanctions involving staff, third party vendor, or visitor as Responding Party, the Sanctioning Official shall be the Senior Vice President for College Operations or designee with assistance from the Director of Human Resources.
3. For sanctions involving a faculty member, the Sanctioning Official shall be the Senior Vice President for Instruction/Provost or designee with assistance from the Director of Human Resources.

## **IMPOSITION OF SANCTIONS**

Disciplinary sanctions are imposed by the appropriate sanctioning official when a College community member is found in violation of the College's Sexual Misconduct Policy. Sanctions for sexual misconduct will be

determined on a case by case basis. The Title IX Coordinator reviews proposed sanctions before they are imposed to ensure that they, along with the College's interim measures taken in response to the sexual misconduct, are reasonably calculated to end the sexual misconduct, prevent its recurrence, and remedy the effects on the Reporting Party and/or the College community. The sanctioning official reserves the right to broaden or lessen any range of recommended sanction(s) in the case of serious circumstances or egregious behavior. The sanctioning official will consider a range of factors when imposing sanction(s). This range includes:

- The nature and severity of the prohibited conduct
  - Previous disciplinary history of the respondent
  - The practice established by previous sanctions
  - Whether force or a weapon was used
  - The involvement of multiple perpetrators
  - Pre-meditated use of alcohol/drugs to facilitate the violation
1. Any one or more of the sanctions listed below may be imposed when a Responding Party violates the College's Sexual Misconduct Policy. Possible sanctions include, but are not limited to:
    - **Community/Mandated Service:** Responding Party is required to work in the community and/or campus community for a designated time period.
    - **Educational Interventions:** Responding party is required to write a letter of apology, reflective paper, participate in a course, workshop etc.
    - **Warning/Probation:** Sanctioning Official provides a written warning to Responding Party that further violation will result in harsher sanctions.
    - **Restitution:** Responding Party is required to cover the Reporting Party's cost of damage or loss of property/services.
    - **Campus Ban/Loss of Privileges:** Responding Party is not allowed to enter certain campus buildings/locations or participate in activities/programs for a designated time period.
    - **No Contact Order:** Responding Party is prohibited from contacting, either directly or indirectly, with the Reporting Party for a specified period of time. Contact includes, but is not limited to, email, social media, instant messaging, text messaging, phone calls, voicemail, direct visits, or through friends acting on behalf of the Responding Party.
    - **Suspension:** Responding Party is temporarily dismissed from the College for a designated time period. All rights and privileges as a student or employee are suspended during this time period.
    - **Expulsion/Employment Termination:** Responding Party is dismissed from the College. All rights and privileges as a student or employee are terminated.
  2. After reviewing the written report of the SMIT panel's findings, and the parties' impact statements, the sanctioning official(s) shall, in consultation with the Title IX Coordinator, within five (5) business days of receiving the panel's report, decide upon the appropriate sanction(s). Once an appropriate sanction has been determined, the sanctioning official and Title IX Coordinator will notify the Reporting Party and Responding Party within two (2) business days. This letter will include the following:

1. That the outcome of the formal investigation indicates a finding of violation of the College's Sexual Misconduct Policy;
2. That the sanction has been imposed;
3. The nature of the sanction; and
4. The right to appeal the outcome of the finding of violation of the College's Sexual Misconduct Policy and the sanction imposed.
5. Any disclosures to persons other than the parties deemed necessary shall be in accordance with all applicable federal and state laws, including (Family Educational Rights and Privacy Act (FERPA) with regard to students.
6. Any sanction imposed may be suspended pending appeal or during an employee's resort to administrative grievance procedures, in the discretion of the sanctioning official(s).

## NOTICE

Whenever notice to the parties is required by this policy, it shall be rendered in writing, to the Reporting Party's and Responding Party's last known address and served in accordance with the following, at the discretion of the Sanctioning Official:

- In person;
- By email, and/or
- By regular U.S. Mail, postage prepaid.

## APPEALS

1. A party aggrieved by a decision of the SMIT, or of the sanctions imposed may file a Petition for Appeal within five (5) business days of notification of the final outcome.
2. The appeal must be sent to the Title IX Coordinator in writing and state clearly the grounds which would justify consideration. General dissatisfaction with the outcome of the proceeding is not a basis for appeal. The written appeal must address one of the following criteria:
  - a. An error in procedure, which prejudiced the process to the extent the participant, was denied a fundamentally fair hearing as a result of the error. Only significant procedural errors that may have affected the decision of the Investigative Hearing Panel or which relate to the sanction imposed will be considered.
  - b. New evidence that was previously unknown and is available during the appeal process that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included with the notice of appeal.
  - c. Clearly demonstrated bias by an investigator or sanctioning official.

**An appeal which does not clearly raise one of these three criteria will be dismissed without further consideration.**

3. After receiving a Petition for Appeal, the Title IX Coordinator shall inform the non-appealing party of the appeal and give that party an opportunity to respond within five (5) business days. The Title IX Coordinator shall also inform the appropriate sanctioning official of the appeal.
4. After receipt of the Petition for Appeal and any response, the Title IX Coordinator shall immediately notify the College Appeals Committee.
5. The College Appeals Committee shall review the appeal and any response to determine if the appeal meets any of the limited grounds and is timely. Appeals decisions are to be deferential to the original investigatory and sanctioning processes, making changes to the finding only if there is clear error and to the sanction only if there is a compelling justification to do so. The original finding and sanction will stand if the appeal is not timely or does not meet one of the above stated grounds. The College Appeals Committee will render a written decision on the appeal to all parties within ten (10) business days from receipt of the appeal. The College Appeals Committee will also provide a copy of the written decision on the appeal to the sanctioning official(s). The College Appeals Committee's decision is final and not appealable.
6. If the College Appeals Committee determines that new evidence should be considered, the Committee will return the complaint to the investigative team to reconsider in light of the new evidence only, and the parties will be notified in writing accordingly. The investigative team shall conduct any supplemental investigation in accordance with the procedures set out above with proper notice and opportunity to be heard conveyed to the parties. The reconsideration of the investigative team is not appealable.
7. If the College Appeals Committee determines that a material procedural error occurred, the Committee may return the complaint to the investigative team with instructions to reconvene to cure the error. In rare cases, where the procedural error cannot be cured by the original panel members (as in cases of bias), the College Appeals Committee may order a new investigation on the complaint with a new team of investigators. The results of a reconvened investigation cannot be appealed. The results of a new investigation can be appealed, once, on three applicable grounds for appeals.

## **FALSE COMPLAINTS**

The College prohibits an individual from knowingly filing a false complaint or making a misrepresentation of sexual misconduct. However, a complaint made in good faith is not considered false merely because the evidence does not ultimately support the allegation of sexual misconduct. Acts of knowingly filing false complaints are, by themselves, cause for disciplinary action.

Responding Parties in an allegation made in bad faith can file a complaint with the Title IX office. If a Responding Party believes that a complaint is filed in bad faith (misinformation was knowingly provided, or a false allegation made) a complaint can be filed with the Title IX office. The claim will go through the same review process as complaints of sexual misconduct facilitated by the Title IX Office.