



## Title IX Information

Title IX Co-Coordinators	Title IX Deputies
<p><b>Cynthia J. Peterka, Ph.D.</b>  Vice President of Student Services  443-518-4809  <a href="mailto:cpeterka@howardcc.edu">cpeterka@howardcc.edu</a>  MH 258</p> <p><b>Dave Jordan</b>  Associate VP of Human Resources  443-518-1100  <a href="mailto:djordan@howardcc.edu">djordan@howardcc.edu</a>  N 100</p>	<p><b>Llatetra Esters, Ed.D.</b>  Interim Director of Student Conduct  Exec. Assoc. to the VPSS  443-518-4506  <a href="mailto:lesters@howardcc.edu">lesters@howardcc.edu</a>  MH 258</p> <p><b>David Tiscione</b>  Associate Director of Student Conduct  and Compliance, Title IX Deputy  443-518-3182  <a href="mailto:dtiscione@howardcc.edu">dtiscione@howardcc.edu</a>  MH 258</p>

**Title IX Advisors** – These individuals serve in an advisory role to the Title IX coordinators and investigators and as points of contact for students or staff on issues related to Title IX.

<p><b>David Beaudoin</b>  Assoc. Prof., Arts &amp; Humanities  443-518-4468  dbeaudoin@howardcc.edu</p> <p><b>Brandon Bellamy</b>  Asst. Dir., Student Support Services  443-518-7469  bbellamy@howardcc.edu</p> <p><b>Cheryl Cudzilo</b>  Assistant Registrar  443-518-3103  ccudzilo@howardcc.edu</p> <p><b>Lois Hollander</b>  Adjunct Faculty  443-518-1000  lhollander@howardcc.edu</p>	<p><b>Tara Rupp</b>  Wellness Center Coordinator  443-518-4640  trupp@howardcc.edu</p> <p><b>Diane Schumacher</b>  Director, Athletics  443-518-4122  dschumacher@howardcc.edu</p> <p><b>Karlyn Young</b>  Director of Human Resources  443-518-3802  kyoung@howardcc.edu</p> <p><b>Mary Ann Massoglia</b>  Asst. Prof., Psychology/Human Dev.  443-518-4887  mmassoglia@howardcc.edu</p>
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## **Title IX Background**

Originally written to oversee gender equity in athletics, Title IX of the Education Amendments of 1972 (Title IX) is a Federal law that protects people from discrimination based on sex in education programs and activities that receive Federal financial assistance. Sexual harassment and violence are forms of discrimination based on sex.

Title IX reads:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal assistance.

Howard Community College complies with Title IX regulations and is providing the following to inform and educate the college community about what constitutes sexual discrimination, how to prevent it, how to report it, and how reported incidents of Title IX will be addressed.

## **Non-discrimination Policy (63.01)**

Howard Community College prohibits discrimination against any person on the basis of race, ethnicity, creed, religion, sex, color, ancestry or national origin, age, political opinion, sexual orientation, marital status, veteran status, genetic information, occupation, source of income, gender identity or expression, physical appearance, familial status, or physical or mental disability of otherwise qualified individuals.

This non-discrimination policy applies to and includes, but is not necessarily limited to, employment practices, educational programs, student admissions, and access to services. The college will abide by all applicable requirements of state and federal law prohibiting discrimination. Sex discrimination prohibited by Title IX of the Education Amendments of 1972 includes sexual misconduct, which is described in the college's Sexual Misconduct Policy (63.01D).

All members of the college community are expected to abide by this non-discrimination policy and county, state, and federal requirements. Those persons charged with a

violation of this policy, if substantiated, may be subject to disciplinary action, including discharge, in addition to the penalties imposed under state and federal law.

In addition, the college will go beyond avoiding overt discrimination and will, through educational programs, help faculty and staff become aware of and recognize more covert and subtle forms of discrimination and to remove those institutional barriers to equality.

### **Definitions.**

Ethnicity or race is used operationally to mean the voluntary self-disclosure of ethnic or racial designations used by Howard County, the State of Maryland or the federal government for the purposes of monitoring non-discrimination. Specific ethnic or racial designations being used currently by the county, state, or federal government may be obtained from the office of human resources.

Freedom of political opinion includes participation in politics or political campaigns and the free expression of ideas; however, it does not include the ability to engage in political activity while on the job during working hours, advocacy of the overthrow of the government by unconstitutional and violent means, or obligation to contribute or render political services by employees. For students, it does not include the ability to engage in activity that violates the rights of others or is otherwise unlawful.

Sexual orientation is the manner in which one's sexual attraction is directed, either towards members of the same sex, opposite sex, or both sexes.

Gender identity or expression means a gender-related identity or appearance of an individual regardless of the individual's assigned sex at birth.

Physical appearance means outward appearance of a person with regard to hair style, facial hair, physical characteristics, or manner of dress. It does not relate to a requirement of cleanliness, uniforms, or prescribed attire, when uniformly applied, for admittance to a public accommodation or to a class of employees.

## **Sexual Misconduct Policy**

Howard Community College (the “college”) recognizes that sexual misconduct damages the integrity of the educational institution, destroys the institution’s positive work and educational atmosphere, and causes psychological and physiological damage to the victim. The college condemns such illegal activity and is strongly committed to providing a learning and working environment free from any form of sexual misconduct. Sexual misconduct is an umbrella term that includes sexual and gender-based harassment or discrimination, sexual violence, dating violence, domestic violence, sexual exploitation, sexual intimidation, and stalking. Howard Community College prohibits and will not tolerate sexual misconduct. Sexual misconduct is a form of sex discrimination prohibited by state and federal laws, including Title IX of the Education Amendments of 1972 as amended (“Title IX”) and Title VII of the Civil Rights Act of 1964 as amended, and also may constitute criminal activity.

Howard Community College will promote a climate that is free from sexual misconduct through training, education and prevention programs. The college will also promote prompt reporting, prohibit retaliation, and promote timely, fair, and impartial investigation and resolution of reported sexual misconduct. Any employee, student, vendor, or affiliated person who engages in sexual misconduct in violation of this policy will be subject to disciplinary action including but not limited to dismissal from a class, suspension from the college, termination of a contract or debarment in the case of vendors, or permanent expulsion or termination in the case of employees.

All college community members are subject to this policy, regardless of sex, sexual orientation, gender identity, and gender expression. This includes all college students, faculty, and staff, as well as third parties and contractors under the college’s control. Violations of the policy may occur between individuals or groups of individuals of any sexual orientation or actual or perceived gender identity. This policy applies to sexual misconduct in connection with any college program or activity, including sexual

misconduct: (1) in any college facility or on college owned or controlled property; (2) in connection with any college sponsored, recognized or approved program, visit or activity, regardless of location; (3) that impedes equal access to any college education program or activity or adversely impacts the employment of a member of the college community; or (4) that otherwise threatens the health or safety of a member of the college community.

Any type of retaliatory or intimidating behavior against a person who files a complaint or otherwise participates in an investigation or adjudicatory action is expressly prohibited by this policy. Howard Community College will take strong disciplinary action against any individual or group of individuals found responsible for retaliating or intimidating, or attempting to retaliate or intimidate, another person for making a report of sexual misconduct, participating in the investigation of sexual misconduct, participating as a witness in an adjudicatory proceeding, or otherwise participating in any way in support of a person exercising rights under this policy.

The Title IX co-coordinators are Dr. Cynthia Peterka, vice president of student services, and Mr. David Jordan, associate vice president of human resources. Dr. Llatetra Brown Esters, interim director of student conduct and the executive associate to the vice president of student services, and David Tiscione, associate director for student conduct and compliance, are the deputy Title IX coordinators. Dr. Peterka (CPeterka@howardcc.edu), and Dr. Esters (lesters@howardcc.edu), and Mr. Tiscione (dtiscione@howardcc.edu) can be reached at 443-518-4809. Their offices are located in McCuan Hall 258 (MH 258). Mr. Jordan (djordan@howardcc.edu) can be reached at 443-518-1100. His office is located in Nursing building 100 (N100).

A student who reports an incident of sexual misconduct, either as a complainant or a third party witness, will not be held responsible for violating the Student Code of Conduct if the student was under the influence of alcohol or drugs at the time of the incident. HCC does not want the fear of receiving disciplinary charges and/or

disciplinary sanction to prevent a student from reporting an incident of sexual misconduct.

Howard Community College (HCC) has established the following definitions and procedures regarding sexual misconduct.

## I. Definitions

### A. Definitions of Prohibited Forms of Sexual Misconduct:

1. **Sexual Violence** is a form of sexual harassment and refers to physical sexual acts perpetrated without consent. Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion. Sexual violence, in any form, is a criminal act.
  
2. **Sexual Harassment** is any unwelcome sexual advance, unwelcome request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature when: (1) Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's evaluation of academic work, employment, or participation in any aspect of a college program or activity; (2) Submission to or rejection of such conduct by an individual is used as the basis for academic, employment, or activity or program or activity participation related decisions affecting an individual; or (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e., it is sufficiently severe or pervasive to create an intimidating, hostile, humiliating, demeaning or sexually offensive working, academic, residential, or social environment, which interferes with, denies, or limits an individual's ability to benefit from the college's educational program or activities, or professional or employment performance. Sexual harassment may include, but is not limited to the following: (1) verbal harassment or abuse; (2) pressure for sexual activity; (3) unwelcome touching; (4) suggesting or demanding sexual involvement accompanied by implied or explicit threats concerning one's grades, job, etc.; (5) displaying pornographic or

sexually suggestive images in a place or manner where others could view such images and be offended; or (6) using sexually suggestive language in a place or manner where others could hear such language and be offended.

3. **Sexual Assault** is any type of sexual contact or behavior that occurs without the explicit consent of the recipient. Sexual assault, as defined by the Violence Against Women Reauthorization Act of 2013 (VAWA), refers to any offense that meets the definition of rape (any penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim), fondling (touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity), incest (sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law), or statutory rape (sexual intercourse with a person who is under the statutory age of consent) as used in the FBI's Uniform Crime Reporting (UCR) program. Non-consensual sexual contact and non-consensual sexual intercourse as defined below may constitute sexual assault within the meaning of this policy.
  
4. **Non-Consensual Sexual Contact** is any intentional sexual touching, however slight and with any object or body part, or exposure or disrobing of another, that is without consent (as defined below) or by force or coercion. This includes intentional contact with breasts, buttocks, groin, mouth, or genitals, as well as any other intentional bodily contact that occurs in a sexual manner.
  
5. **Non-Consensual Sexual Intercourse** is any sexual penetration or copulation, however slight and with any object or body part, that is without consent or by force or coercion. Intercourse includes anal or vaginal penetration by a penis, object, tongue, or finger, and oral copulation (mouth and genital/anal contact), no matter how slight the penetration or contact.

6. **Sex Offense** is any sexual act perpetrated against another person, without the consent of the victim, to include when a person is incapable of giving consent due to the victim's use of drugs or alcohol or an intellectual or other disability. A respondent's level of intoxication will not diminish their responsibility for sexual assault or sex offense.
7. **Sexual Exploitation** means taking non-consensual or abusive sexual advantage of another to benefit anyone other than the person being exploited. Examples include: invading privacy, going beyond the boundaries of consent (such as letting someone hide in a closet to watch you having consensual sex), video or audio recording of sexual acts without consent, knowingly transmitting a sexually transmitted infection (STI), sexually-based stalking or bullying, or exposing one's genitals.
8. **Sexual Intimidation** means (1) threatening to sexually assault another person; (2) gender or sex-based stalking, including cyber-stalking; or (3) engaging in indecent exposure.
9. **Dating Violence** means violence or threat of violence between individuals in a personal and private social relationship of a romantic or intimate nature. The existence of such a relationship will be determined based on a consideration of the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.
10. **Domestic Violence** means violence committed by a current or former spouse or intimate partner, by a person with whom a child is shared in common, by a person cohabitating with or has cohabitated with the individual as a spouse or intimate partner, by a person similarly situated to a spouse, or by any other person similarly situated to a spouse or any other person against an adult or youth protected from those acts by domestic or family violence laws of Maryland. Domestic violence includes threats or a pattern of abusive behavior of a physical or sexual nature by

one partner intended to control, intimidate, manipulate, humiliate, frighten, coerce or injure the other.

11. **Stalking** means the intentional, repetitive or menacing pursuit, following, harassment, or other interference with the peace or safety of another person or that of his or her immediate family members; including cyber-stalking. The definition of stalking also includes intentionally following another person in or about a public place without their consent or engaging in a course of conduct that alarms or seriously annoys the person. Stalking, harassment, and cyber-stalking behaviors may include, but are not limited to: (1) repeated, unwanted/unsolicited contact that includes face-to-face contact, telephone calls, voice messages, text messages, electronic mail, instant messages, written letters, or unwanted gifts; (2) repeated, unwanted/unsolicited communication on public and college community internet sites; (3) disturbing online messages; (4) persistent physical approaches or requests for dates, meetings, etc.; (5) threats that create fear for one's life or safety, or fear for the safety of one's family, friends, roommates, or others; (6) unwanted touching; (7) pursuing or following another person, repeatedly showing up or waiting outside a person's home, classroom, place of employment, or vehicle; (8) using surveillance or other types of observation, either in person or through the use of electronic devices or software to track or obtain private information; (9) harassing another person, either in person or through a third party; (10) using threatening gestures; (11) trespassing or breaking into a person's vehicle or residence; or (12) vandalism or destruction of a person's personal property.

**B. Definition of Consent:**

Consent is defined as permission to act. It may be given by words or actions, so long as those words or actions create clear, voluntary, mutually understood permission to engage in (and the conditions of) sexual activity. Consent must meet all of the following standards:

- Active, not passive. Silence, in and of itself, cannot be interpreted as consent. There is no requirement that an individual resist a sexual act or advance, but resistance is a clear demonstration of non-consent.
- Given freely. A person cannot give consent under force, threats, or unreasonable pressure (coercion). Coercion includes continued pressure after an individual has made it clear that he/she does not want to engage in the behavior, he/she wants to stop the behavior, or that he/she does not want to go beyond a certain point of sexual interaction.
- Provided knowingly. Legally valid consent to sexual activity cannot be given by:
  - A person under the legal age to consent (16 years old in Maryland) or
  - An individual who is known to be (or based on the circumstances should reasonably be known to be) mentally or physically incapacitated. An incapacitated individual is someone who cannot freely make rational, reasonable decisions because he/she lacks the capacity to understand the “who, what, when, where, why, or how” of a sexual interaction. This includes a person whose incapacity results from: being mentally disabled, asleep or passed out, involuntarily physically restrained, physically forced, unconscious or having a blackout, or beaten; feeling scared, physically forced, intimidated, coerced, threatened, or isolated; or having ingested, inhaled, or been injected with date rape drugs, or using alcohol or other drugs. Possession, use, or distribution of any drugs, alcohol, or similar substances is prohibited and administering a date rape drug to another student is a violation of this policy.
- Specific. Permission to engage in one form of sexual activity does not imply permission for another activity. In addition, previous relationships or prior consent do not imply consent to future sexual acts. It is the responsibility of the initiator of the act to receive permission for the specific act. As a result,

consent may be requested and given several times by multiple parties during a sexual encounter involving multiple acts.

C. Definitions Related to Implementation of Policy:

A. **Retaliation** means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or college policy relating to sexual misconduct, or because an individual has made a report, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to sexual misconduct. Retaliation includes retaliatory harassment.

B. **Interim Measures** means reasonably available steps the college may take to protect the parties while a sexual misconduct investigation is pending.

C. **Responsible Employee** includes any college employee who (1) has the authority to take action regarding sexual misconduct; (2) is an employee who has been given the duty of reporting sexual misconduct; or (3) is someone another individual could reasonably believe has this authority or duty. HCC has designated all HCC non-confidential college employees as responsible employees. This includes: the Title IX coordinators and all Title IX team members, all non-confidential administrators, all professional and technical staff, all support staff, all faculty, all athletic coaches, and all college public safety staff members.

II. Reporting Sexual Misconduct and Requesting Interim Measures

The college encourages victims of sexual misconduct to report those incidents to the college's Title IX coordinator, or any responsible employee with whom the victim feels comfortable.

A. Victim Reporting

The college will offer victims of sexual misconduct options for reporting the misconduct and requesting interim measures required by Title IX. These options will include:

- The victim reports the misconduct to the Title IX coordinator or another college employee whom the college has designated as responsible for receiving or responding to reports of sexual misconduct. The victim should be notified of the interim measures available and requests for interim measures can be made by the victim to the Title IX coordinator or responsible employee. Reports of sexual misconduct to responsible employees will be forwarded to the Title IX coordinator who will determine what steps need to be taken. Generally, the college will investigate the report to determine what occurred and the college will provide interim measures during the investigative process and any disciplinary process.
- The victim discloses the misconduct to a victim advocate through the office of the vice president of student services, the office of human resources, or the office of counseling and career services, who in turn can request interim measures from the college on the victim's behalf. Under the second option, victims should be aware that when a victim advocate obtained through one of the above offices requests interim measures on their behalf from a responsible employee of the college and discloses that the reason for the request is sexual misconduct, the request may trigger the college's Title IX obligation to investigate. To the extent the victim advocate through the office of the vice president of student services, office of human resources, or the office of counseling and career services makes such a disclosure, but, consistent with the victim's wishes, asks that the college not investigate or otherwise notify the alleged perpetrator of the report, the Title IX coordinator will consider whether it can honor the request while still providing a safe and nondiscriminatory environment for all students, and take interim measures to protect the victim as necessary.

- The victim, or the victim's advocate, requests supportive measures from the college without reporting the sexual misconduct to the college. While the college strongly encourages all victims of sexual misconduct to report the incident to the college directly, the college wants victims to have access to supportive measures regardless of when or whether they decide to report the conduct to the college.
- A student who reports an incident of sexual assault will be informed of the right to file criminal charges with the appropriate law enforcement officials; provided with prompt assistance of campus authorities, at the request of the victim, in notifying the appropriate law enforcement officials and disciplinary authorities of an incident of sexual assault; given the designation of Howard County General Hospital located at 5755 Cedar Lane, Columbia, MD 21044, which is equipped with the Department of State Police Sexual Assault Evidence Collection Kit; receive full and prompt cooperation from campus personnel in obtaining appropriate medical attention, including transportation to the nearest designated hospital; offered counseling from mental health service from the institution, other victim services entities, or the nearest State designated rape crisis program; and after a campus sexual assault has been reported, and upon request of the alleged victim, the transfer of the alleged victim to alternative classes will be made if such alternatives are available and feasible.

A student who reports an incident of sexual misconduct, either as a complainant or a third party witness, will not be held responsible for violating the Student Code of Conduct if the student was under the influence of alcohol or drugs at the time of the incident. HCC does not want the fear of receiving disciplinary charges or disciplinary sanction to prevent a student from reporting an incident of sexual misconduct.

## B. Third Party and Anonymous Reporting

Individuals who have become aware of a violation of this sexual misconduct policy that does not involve the individual directly should report the misconduct to the college's Title IX coordinator. If an individual wishes to report a violation of the sexual misconduct policy anonymously, the report should also be made to the Title IX coordinator. Anonymous reporting may limit the college's actions.

### C. Notification of the Means of Reporting Sexual Misconduct and Requesting Interim Measures

The college will provide notification to the college community of the means of reporting sexual misconduct and requesting interim measures.

### III. Interim Measures

Interim measures are those services, accommodations, or other assistance that the college puts in place for victims after receiving notice of alleged sexual misconduct but before any final outcomes - investigatory, disciplinary, or remedial - have been determined. The college wants its students to be safe, to receive appropriate medical attention, and to get the help they need to heal and to continue to access their educational opportunities. Upon receiving a report of sexual misconduct, the college will provide the victim, or the victim's advocate, with a written explanation of the interim measures available on campus or through local community resources and will ask victims, or their advocates, what measures are sought. The college will determine which measures are appropriate for a particular victim on a case-by-case basis. If the victim or the victim's advocate identifies an interim measure that is not already provided by the college, the college will consider whether the request can be granted. In those instances where interim measures affect both a victim and the alleged perpetrator, the college will minimize the burden on the victim wherever appropriate.

A victim of sexual misconduct, or the victim's advocate, may request the interim measures listed below. The college, after consulting with the victim or the victim's

advocate, will determine which measures are appropriate to ensure the victim's safety and equal access to educational programs and activities:

- Academic accommodations
- Assistance in arranging for alternative college employment arrangements or changing work schedules
- A "no contact" directive pending the outcome of an investigation. Such a directive serves as notice to both parties that they must not have verbal, electronic, written, or third party communication with one another
- Providing an escort to ensure that the victim can move safely between educational programs and activities
- Assistance identifying an advocate to help secure additional resources or assistance including off-campus and community advocacy, support, and services

The college will work with victims or their advocates to identify what interim measures are appropriate in the short-term (e.g., during the pendency of an investigation or other college response), and will continue to work collaboratively throughout the college's processes and as needed thereafter to assess whether the instituted measures are effective, and if not, what additional or different measures are necessary to keep the victim safe.

If a victim or a victim's advocate requests any of the above measures on the victim's behalf without disclosing that sexual misconduct is the basis for the request, the college will consider these requests for supportive measures consistent with its general policy of allowing advocates to seek such measures for victims of trauma without requiring that the nature of the trauma be disclosed.

#### IV. Investigation Procedure and Protocol

The college's Title IX coordinator is responsible for receiving, investigating, and coordinating the response to reports of sexual misconduct policy violations at

HCC. Once the college knows or reasonably should know of possible sexual misconduct, it must take immediate and appropriate action, in accordance with its internal procedures, to investigate or otherwise determine what occurred. This obligation applies to sexual misconduct covered by this policy regardless of where the sexual misconduct allegedly occurred, regardless of whether a concurrent law enforcement investigation or action is pending, and regardless of whether a formal complaint is filed.

A number of college employees will be trained in conducting a formal investigation and may be designated by the Title IX coordinator to assist as appropriate and if needed. As part of the investigation, the investigator will meet with the reporting party to gather as much information as available about the alleged violation. The investigator should additionally interview anyone involved with the alleged violation in order to collect evidence and information.

Both the complainant and the respondent in an investigation have equitable rights to review evidence and participate in meetings specific to the investigation.

A request for confidentiality by the individual reporting alleged sexual misconduct may limit, but not prohibit, the college's ability to limit the effects or prevent recurrence of alleged sexual misconduct.

#### V. Grievance and Adjudication Procedures

Any alleged violation of this sexual misconduct policy will be adjudicated under the procedures outlined by the HCC student code of conduct in the case of an alleged violation by a student enrolled at HCC and by procedures otherwise applicable to adjudication of employee and third party alleged misconduct. The procedures, participants, sanctions and appellate process all apply to these proceedings related to alleged violations of this policy. However, to the extent such procedures are not otherwise specified or are in conflict with any procedures outlined by the HCC student code of conduct or the procedures applicable to the investigation of employee or third

party conduct, the following procedures specific to the adjudication of violations of this sexual misconduct policy will apply:

- The parties to the proceeding will have equitable rights including: notice of hearings to both parties; an opportunity for both parties to present witnesses and other evidence, such as information about the specific alleged violation but not about the complainant's prior sexual conduct with anyone other than the respondent.
- For hearings related to an alleged violation of the sexual misconduct policy, neither the complainant nor the respondent are required to be present in the same room. Accommodations, including but not limited to listening to and participating in the hearing over the phone, may be made to allow either party to participate in the process without being present at the hearing location. Further, neither the complainant nor the respondent need to participate in the hearing as a prerequisite to proceed with the hearing. Failure of the complainant or respondent to appear at the hearing, after proper notice, will result in the committee making a decision through the hearing process in their absence.
- The respondent cannot cross examine or personally question the complainant, and the complainant cannot cross examine or personally question the respondent. If the respondent or the complainant has questions for the other party, they may submit those questions to the hearing chairperson during the hearing. The hearing chairperson may use the submitted questions to inform which questions the hearing panel asks.
- The parties will be afforded similar and timely access to information to be used during the proceeding.
- The parties are entitled to the same opportunities to have others present during the proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an adviser of their choice. For proceedings related to an alleged violation of the sexual misconduct policy, the adviser of choice can include legal representation. The adviser's role is to provide

- personal counsel and support to the respondent or complainant, but not to present the case or address the hearing panel, hearing Chairperson or other participants in the process. The adviser may not serve as a witness in the conduct proceeding. Disruptive advisers will be removed from the process at the discretion of the hearing Chairperson, and the process will continue. If the adviser does not appear at the hearing, after proper notice to the complainant or respondent, the hearing process will continue in the adviser's absence.
- The preponderance-of-the-evidence (i.e., more likely than not) standard will be applied as the standard of review for determining findings of fact; used in any Title IX fact-finding and related proceedings, including any hearing.
  - Evidence of a prior consensual dating or sexual relationship between the parties by itself does not imply consent or preclude a finding of sexual misconduct.
  - The appeal process will be equally available to both parties.
    - Either party has the right to appeal the outcome of the complaint if not satisfied with the result. A written appeal must be filed in writing within seven business days of the outcome or resolution. Appeals involving a complaint of sexual misconduct made against a student should be filed with the vice president of academic affairs. Appeals involving a complaint of sexual misconduct made against an employee should be filed with the vice president of administration and finance. The appeal should state the reason(s) for the appellant's belief that the outcome is unsatisfactory and provide evidence to support those reasons.
    - Appeals will only be granted (1) when sanctions are substantially disproportionate to the offense, where mitigating factors warrant a reduced sanction or aggravating factors warrant a greater sanction; (2) if procedural errors or conduct of the investigation were so substantial as to effectively deny fundamental fairness; or (3) if new and significant evidence became available that could not have been discovered by a properly diligent party before or during the original

investigation. If one or more of the above criteria are met, the vice president will review the appeal and issue a written decision within 30 days after its receipt. The decision of the vice president is final.

Mediation is never appropriate in sexual assault cases and will not be used at the college.

Any party participating in a proceeding may raise issues related to potential conflicts of interest of investigators or other individuals participating in the adjudication process by contacting the Title IX coordinator.

As permitted by law, the college will notify the parties concurrently, in writing, about the outcome of the complaint and whether or not sexual misconduct was found to have occurred. The college will also concurrently inform the parties of any change to the results or outcome that occurs before the results or outcome become final, and the institution must inform the parties when the results or outcome become final. In addition, HCC will not require either participant to abide by a nondisclosure agreement in writing or otherwise that would prevent the re-disclosure of information related to the outcome of the proceeding.

## VI. Prompt Resolution

If there is a determination that sexual misconduct has occurred, prompt and effective steps to eliminate the sexual misconduct, prevent its recurrence, and address its effects will be taken.

- Prompt generally means within 60 calendar days from the time a report is brought to the college's attention until an initial decision is rendered.
- There may be circumstances that prevent the college from meeting the 60-day timeline. In such circumstances, the college will document the reasons why it was unable to meet the 60-day timeline.

## VII. Training

A. Prevention and Awareness Education

The college will develop and implement preventive education directed toward both employees and students. These educational initiatives will contain information regarding what constitutes sexual misconduct, definitions of consent and prohibited conduct, the college's procedures, bystander intervention, risk reduction, and the consequences of engaging in sexual misconduct. These educational initiatives will be provided for all incoming students and new employees. The college will also develop ongoing prevention and awareness campaigns for its students and employees addressing the same information.

HCC will provide on-going education and awareness information about this sexual misconduct policy and related procedures through student orientation, workshops, handouts, letters, poster campaigns, and other outreach activity targeted at the general student population as well as athletes and other campus leaders.

B. Annual Training Related to Implementation of Policy

HCC employees will receive -annual training on how to report incidents of sexual misconduct as well as how to effectively support victims. In addition, public safety personnel, the Title IX coordinator, campus investigators, and participants in the adjudication process will participate in appropriate annual training to assist them in meeting their responsibilities related to implementation of this policy.

### **Title IX Compliance Oversight**

A. Title IX Coordinator

The president will appoint a Title IX coordinator responsible for coordinating the institution's efforts to comply with and carry out its responsibilities under Title IX.

The Title IX coordinator must have adequate training on the requirements of Title IX, including what constitutes sexual misconduct, consent, credibility assessments, and counter-intuitive behaviors resulting from sexual misconduct. The coordinator must

understand how relevant institution procedures operate and must receive notice of all reports raising Title IX issues at the college.

## B. Title IX Team

The Title IX coordinator may identify a Title IX team, which may include the Title IX coordinator, Deputy Title IX coordinator, Title IX investigators, and representatives from campus public safety and the office of human resources. The Title IX coordinator will be responsible for coordinating the activities of the Title IX team.

## C. Notice of Nondiscrimination

### 1. Content

The college will publish a notice of nondiscrimination that contains the following content:

- a. Title IX prohibits the college from discriminating on the basis of sex in its education program and activities;
- b. Inquiries concerning the application of Title IX may be referred to the college's Title IX coordinator or the Office for Civil Rights; and
- c. The Title IX coordinator and any Title IX team member's title, office address, telephone number and email address.

### 2. Dissemination of Notice

The notice will be widely distributed to all students, employees, applicants for admission and employment, and other relevant persons. The notice will also be prominently displayed on the college's website and at various locations throughout the campus, and must be included in publications of general distribution that provide information to students and employees about the college's services and policies. The notice should be available and easily accessible on an ongoing basis.

## D. Students with complaints of this nature also have the right to file a formal complaint with the United States Department of Education:

Office of Civil Rights (OCR)

U.S. Department of Education  
The Wanamaker Building  
100 Penn Square East, Suite 515  
Philadelphia, PA 19107-3323  
Customer Service Hotline- (800) 421-3481  
Facsimile: (202) 453-6012  
TDD: (800) 877-8338  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
[www.ed.gov/ocr](http://www.ed.gov/ocr)

#### VIII. Legal Sufficiency Review

The college will ensure that sexual misconduct cases involving sexual assault undergo an appropriate legal sufficiency review by counsel prior to any decision.

#### IX. Record Keeping

The college will maintain records of actions taken under this policy, including, but not limited to, records of any reports of sexual misconduct, records of any proceedings or resolutions, and records of any sexual misconduct trainings (including, but not limited to, lists of trainees, dates of training, and training content), and will maintain such records in accordance with the college's records retention schedule.

#### **Discrimination Complaint Procedures (63.01.01)**

The following procedures are adopted to process complaints alleging violations of Howard Community College's (HCC) policies on non-discrimination, equal employment opportunity, equal educational opportunity, or affirmative action and will be in addition to any complaint or charges an employee, applicant or student files with law enforcement or county, state, or federal agencies. These procedures apply to all complaints of discrimination or harassment, excluding sexual misconduct, made against either an employee or a student. Complaints of sexual misconduct will follow the procedures outlined in the college's sexual misconduct policy.

### **Initiation of Complaint.**

Any employee or employment applicant who alleges a violation of college policy on non-discrimination, equal employment opportunity, equal educational opportunity, or affirmative action by an employee should file a complaint in writing, including the grounds for the complaint, with the associate vice president of human resources. If the complaint is against the associate vice president of human resources, the reporting person should file the complaint with the vice president of administration and finance. Any student who alleges a violation of college policy on non-discrimination, equal employment opportunity, equal educational opportunity, or affirmative action must file a complaint in writing with the vice president of student services.

Complainants should be aware that the college is obligated to make its best effort to investigate each written complaint, even if the complainant does not desire an investigation. The college is also obligated to conduct its own investigation in cases where law enforcement or county, state, or federal agencies are also investigating. A complainant's request for anonymity during the investigation will be honored to the extent possible, but the complainant should be aware that protecting anonymity may hamper the investigation.

### **Investigation of Complaint.**

HCC will conduct its own investigation of discrimination complaints and will respond to the complaint, regardless of the reporting party.

The associate vice president of human resources, or the vice president of administration and finance, will investigate complaints made against an employee, and the vice president of student services will investigate complaints made against students. In cases where the parties in the complaint involve both employees and students, the investigation may occur jointly between the associate vice president of human resources and vice president of student services or their designees.

During the investigation all parties in the case are allowed the same opportunity to obtain legal representation and present evidence and witnesses. The investigators will use the "preponderance of evidence" standard to evaluate whether discrimination or harassment occurred. The investigators will issue their written outcome of the complaint within 60 calendar days after the initial written complaint is received, barring unusual complexity or delays. Each party in the case will receive the written outcome. If criminal conduct is suspected to have occurred, the college may refer the matter to law enforcement if they are not already involved.

### **Appeal Process.**

Either party has the right to appeal the outcome of the complaint if not satisfied with the result. A written appeal must be filed in writing to the president of the college within 15 calendar days after the initial outcome is received. The appeal should state the grounds for the appellant's belief that the outcome is unsatisfactory. The president will review the appeal and issue a written decision within 30 calendar days after its receipt. The president's review may or may not include meetings with either party or any witnesses or participants in the case. The president's decision on the appeal is final.

### **Confidentiality and Reprisals.**

All parties and staff will keep the complaint, fact-finding process and outcome confidential, except to the extent that it is necessary to investigate and process the complaint. Furthermore, all student records and access to student records will comply with the Family Educational Rights and Privacy Act of 1974 (FERPA).

Persons filing complaints of harassment or discrimination will be protected against reprisals by actions that are appropriate to the circumstances.

### **False Complaints.**

Those persons who are found filing deliberate false complaints will be subject to disciplinary action.

**Disciplinary Action.**

Substantiated complaints of violation of the policies references above may subject the offending party to disciplinary action (see “Suspension and Dismissal Policy” 63.12).