



## Title IX Information

Title IX Co-Coordinators	Title IX Deputies
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**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.

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## **Title IX Background**

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**

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. Sexual misconduct is an umbrella term that includes sexual and gender-based harassment or discrimination, sexual assault, dating violence, domestic violence, sexual exploitation, and stalking. Howard Community College (HCC) prohibits and will not tolerate sexual misconduct. HCC 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 those involved. The college condemns such activity and is strongly committed to providing a learning and working environment free from any form of sexual misconduct.

HCC promotes a climate that is free from sexual misconduct through training, education and prevention programs. The college promotes prompt reporting, prohibits retaliation, and ensures 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 or expulsion from the college, termination of a contract or debarment in the case of vendors, 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: (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 participating in a protected activity because of their participation in that protected activity is expressly prohibited by this policy. HCC takes 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, opposing in a reasonable manner an act or policy believed to constitute discrimination or harassment, or testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing related to a protected activity. Any concern of retaliation should be reported immediately and the college will promptly investigate.

The college encourages HCC community members who have questions about Title IX or who want to make a complaint regarding sexual misconduct to contact one of the Title IX co-coordinators are Dr. Cynthia Peterka, vice president of student services, and Mr. David Jordan, associate vice president of human resources. The deputy Title IX coordinators are Dr. Llatetra Brown Esters, 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. Dr. Peterka ([cpeterka@howardcc.edu](mailto:cpeterka@howardcc.edu)), Dr. Esters ([lesters@howardcc.edu](mailto:lesters@howardcc.edu)), and Mr. Tiscione ([dtiscione@howardcc.edu](mailto:dtiscione@howardcc.edu)) can be reached at 443-518-4809. Their offices are located in McCuan Hall room 258 (MH 258). Mr. Jordan ([djordan@howardcc.edu](mailto:djordan@howardcc.edu)) can be reached at 443-518-1100. His office is located in the Howard Hall room 100 (HW 100). The most up to date contact information for these individuals can be found on the college website in the staff directory.

HCC community members may also direct questions to the Department of Education's Office of Civil Rights. Additionally, HCC community members may report incidents to any HCC non-confidential college employee because all HCC non-confidential college employees have been designated responsible employees and are required to report

any information they receive regarding sexual misconduct to their supervisor and to HCC's Title IX co-coordinators or the HCC deputy Title IX coordinators. The college employees who are designated as confidential include: employees of HCC Counseling Services licensed for and acting as personal counselors and employees licensed for and acting in a medical capacity for a patient.

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. An employee under similar circumstances would not be disciplined under college procedures if the report was in good faith. HCC does not want the fear of receiving disciplinary charges or disciplinary sanction to prevent a student or employee from reporting an incident of sexual misconduct.

## **I. Definitions**

- The term "student" as defined for the sexual misconduct procedure includes all individuals accepted for admission to any credit or noncredit course or degree granting program sponsored by the college. Student status continues until a student has not enrolled in a course or program for two consecutive academic years.
- The term "complainant" usually means a person who filed the complaint against the respondent or has been affected by the alleged sexual misconduct. In matters of serious misconduct requiring a hearing by the student conduct committee, the complainant may be the vice president of student services or designee. In cases involving employees, the complainant could be an employee, a student, or a representative from the human resources office.
- The term "respondent" is defined as the individual, either student or employee, accused of violating the sexual misconduct policy.

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

1. **Sexual Harassment** is any unwelcome sexual advance, unwelcome request for sexual favors, or other unwelcome verbal, written, online, or physical conduct of a sexual, sex-based, and/or gender-based nature when: (1) Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's basis for or evaluation of academic work, employment, or participation in any aspect of a college program or activity (2) Such conduct has the purpose or effect of creating a hostile environment. A hostile environment is created when harassment is severe, or pervasive or persistent, and objectively offensive such that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the college's educational program, employment, or activities. 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; (6) using sexually suggestive language in a place or manner where others could hear such language and be offended; or (7) threatening to commit a violation of sexual misconduct against another person.
2. **Sexual Assault** is any type of sexual contact or behavior that occurs without the explicit consent of the recipient. Sexual assault can include incest, non-consensual sexual contact, and non-consensual sexual intercourse as defined by this policy. A) Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. B) Non-consensual sexual contact is any intentional sexual touching, however slight and with any object or body part, by a person upon another person, or exposure or disrobing of another, that is without consent (as defined in Sexual Misconduct Procedure 63.01D.01) or by force or coercion. This includes intentional contact with breasts, buttocks, groin, or genitals, touching another with any of these body parts, making another touch the respondent or themselves with or on any of these body parts, as well as any other intentional bodily contact that occurs in a

sexual manner. C) Non-consensual sexual intercourse is any sexual penetration or copulation, however slight and with any object or body part, by a person upon another person, that is without consent (as defined in Sexual Misconduct Procedure 63.01D.01) 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.

3. **Sex Offense** is any act or behavior which fails to comply with or violates sexual offenses as defined by Maryland law.
4. **Sexual Exploitation** means taking non-consensual or abusive sexual advantage of another to benefit anyone other than the person being exploited. Examples include: Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed), invading privacy, prostituting another person, going beyond the boundaries of consent (such as letting someone hide in a closet to observe consensual sex or disseminating sexual pictures without the photographed person's consent), taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV), a sexually transmitted disease (STD) or infection (STI) without informing the other person of the infection, administering alcohol or drugs (such as date rape drugs) to another person without their knowledge or consent, sexually-based stalking or bullying, or exposing one's genitals in non-consensual circumstances.
5. **Dating Violence** means violence or threat of violence between individuals who have been or are currently 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.
6. **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 who has cohabitated with the individual as a spouse or intimate partner, 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.

7. **Stalking** means a course of conduct directed at or the intentional, repetitive or menacing pursuit, following, harassment of another person, or other interference with the peace or safety of another person or their immediate family members that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress; including cyber-stalking. The definition of stalking also includes intentionally following another person in or about a public place without their consent. 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 they do not want to engage in the behavior, they want to stop the behavior, or that they do not want to go beyond a certain point of sexual interaction.
- Provided knowingly. Legally valid consent to sexual activity cannot be given by:
  - (1) A person under the legal age to consent (16 years old in Maryland) or
  - (2) An individual who is known to be or, based on the circumstances, should reasonably be known to be- mentally or physically incapacitated. The question of what the respondent should have known is objectively based on what a reasonable person in the place of the responding party, sober and exercising good judgment, would have known about the condition of the complainant. An incapacitated individual is someone who cannot freely make rational, reasonable decisions because the individual 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 without the consent of the person consuming them is prohibited, and administering a date rape drug to another individual is a violation of this policy. A respondent’s level of incapacitation will not diminish the respondent’s responsibility for needing to obtain consent.

- 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.
- Consent can be withdrawn once given, as long as that withdrawal is clearly communicated.

C. Definitions Related to Implementation of Policy:

1. **Retaliation** is any adverse action, absent legitimate nondiscriminatory purposes, taken against a person participating in a protected activity because of their participation in that protected activity. Participation can include making a report, opposing in a reasonable manner an act or policy believed to constitute discrimination or harassment, or testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing related to a protected activity. Retaliation includes retaliatory discrimination or harassment.
2. **Interim Measures** means reasonably available steps the college may take to protect the parties while a sexual misconduct investigation is pending.
3. **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. The college employees who are designated as confidential include: employees of HCC Counseling Services licensed for and acting as personal counselors and employees licensed for and acting in a medical capacity for a patient.

## **II. Reporting Sexual Misconduct and Requesting Interim Measures**

The college encourages individuals who have experienced sexual misconduct to report those incidents to the college's Title IX Co-coordinators, or any responsible employee with whom the person who experienced the sexual misconduct feels comfortable. The college will address incidents that take place on college owned or controlled property, and all college departments, programs and college sponsored activities, including off-campus when the vice president of student services, associate vice president of human resources or their designees determine that the off-campus conduct affects a substantial college interest. A substantial college interest is defined to include any situation where it appears the student's or employee's conduct may present a danger or threat to the health or safety of self or others; and/or any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or any situation that is detrimental to the educational mission and/or interests of the college.

### **A. Complainant Reporting**

The college will offer complainants options for reporting the misconduct and requesting interim measures. The Title IX Co-coordinators and Title IX deputies are responsible for ensuring the implementation of appropriate interim measures and coordinating the college's response with the appropriate offices on campus. The options for reporting sexual misconduct and requesting interim measures include:

- The complainant 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 complainant should be notified of the interim measures available and requests for interim measures can be made by the complainant to the Title IX coordinator or responsible employee. Reports of sexual misconduct to responsible employees will be forwarded to the Title IX Co-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 or student conduct process.

- The complainant discloses the misconduct to an 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 complainant's behalf. Under the second option, complainants should be aware that when an 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 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 complainant's wishes, asks that the college not investigate or otherwise notify the respondent of the report, the Title IX coordinator or designee 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 complainant as necessary.
- The complainant, or the complainant's advocate, requests supportive measures from the college without reporting the sexual misconduct to the college. While the college strongly encourages all complainants of sexual misconduct to report the incident to the college directly, the college wants complainants to have access to supportive measures regardless of when or whether they decide to report the conduct to the college.
- A student or employee who reports an incident of sexual misconduct 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 complainant, in notifying the appropriate law enforcement officials and disciplinary authorities of an incident of sexual assault, and the right to decline to notify such authorities; be given information regarding the importance of preserving evidence as may be necessary to the proof of criminal cases. This includes information that Howard County General Hospital, located at 5755

Cedar Lane, Columbia, MD 21044, is equipped with the Department of State Police Sexual Assault Evidence Collection Kit, which can be helpful in preserving evidence; 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 services from the institution, other sexual violence support services entities, or the nearest State designated rape crisis program; and after a sexual misconduct case has been reported, and upon request of the complainant, the transfer of the complainant to alternative classes will be made if such alternatives are available and feasible. Additionally, a student or employee who reports an incident of sexual misconduct will be informed of all relevant legal options including the right to file for a peace or protective order. To file for a peace or protective order, complainants should go to their local court house. Additional information about peace or protective orders can be found at [www.mdcourts.gov](http://www.mdcourts.gov).

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 HCC student code of conduct if the student was under the influence of alcohol or drugs at the time of the incident. An employee under similar circumstances would not be disciplined under college procedures if the report was in good faith. HCC does not want the fear of receiving disciplinary charges or disciplinary sanction to prevent a student or employee from reporting an incident of sexual misconduct.

1. Contact information for on and off campus resources

(a) On campus resources

- Title IX Coordinator for students  
443-518-4809  
Vice President for Student Services Office  
McCuan Hall 258
  
- Title IX Coordinator for employees  
443-518-1100

Human Resources  
Howard Hall 100

- Counseling, Career Services, and Job Assistance  
443-518-1340  
Rouse Company Foundation 302
- Public Safety  
Emergency number- 443-518-5555  
Non-emergency number- 443-518-5500  
Rouse Company Foundation first floor
- Employee Assistance Program  
1-800-EAPS (3277)  
Contact Human Resources at 443-518-1100 for additional information

(b) Off campus resources

- Howard County Police Department  
Emergency number- 911  
Non-emergency number- 443-313-2200  
3410 Court House Dr.  
Ellicott City, MD 21043
- Hopeworks of Howard County  
(410) 997-0304  
9770 Patuxent Woods Drive, Ste. 300  
Columbia, MD 21046

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 Co-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 Co-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 complainants or respondents after receiving notice of alleged sexual misconduct but before any final outcomes - investigatory, disciplinary, or remedial - have been determined. Some interim measures may become remedies for the involved parties after a final outcome of a sexual misconduct investigation.. The college wants its students and employees to be safe, to receive appropriate medical attention, and to get the help they need to heal and to continue to access their educational and employment opportunities. Upon receiving a report of sexual misconduct, the college will provide the complainant, or the complainant's advocate, with a written explanation of the interim measures available on campus or through local community resources and will ask complainants, or their advocates, what measures are sought. The college will determine which measures are appropriate for a particular complainant or respondent on a case-by-case basis. If the complainant, the complainant's advocate, or the respondent 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 complainant and the respondent, the college will minimize the burden on the complainant wherever appropriate.

A complainant, the complainant's advocate, or the respondent may request the interim measures listed below. The college, after consulting with the complainant, the complainant's advocate, or the respondent will determine which measures are



appropriate to ensure the individual's safety and equal access to educational programs and activities:

- Academic accommodations such as change in class schedule and extended deadlines for assignments
- Assistance in arranging for alternative college employment arrangements, physical office space alterations, or changing work schedules
- A "no contact" directive. 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 enhance safety for the parties involved in a process as they move safely between educational programs, employment, and activities
- Assistance in identifying an advocate to help secure additional resources or assistance including on and off campus and community advocacy, support, and services.
- Other interim measures deemed appropriate by the institution

The college will work with complainants 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 complainant safe.

If a complainant or a complainant's advocate requests any of the above measures on the complainant'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 those who have experienced sexual misconduct without requiring that the nature of the misconduct be disclosed.

#### **IV. Investigation Procedure and Protocol**

The college's Title IX Co-coordinator, or their designees, are 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 through a prompt, fair, and impartial investigation and resolution. 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.

The college aims to complete investigations in a timely manner. Investigations can typically take between 30 and 50 days. The length of the investigation may be influenced by the complexity, severity and extent of the alleged conduct, whether there is a parallel criminal process, the academic calendar such as school closings, and the availability and responsiveness of participants in the process.

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

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. The college reserves the right to proceed with any aspect of the sexual misconduct process, including but not limited to an investigation, interim measures, or student conduct hearing, when the complainant does not choose to proceed. When making this decision, the college will consider whether there is a risk to the greater college community, the risk that the respondent will commit additional acts of sexual misconduct, whether there has been other sexual misconduct complaints

against the respondent, whether the respondent threatened further sexual misconduct against the complainant or others, and whether the sexual misconduct was committed by multiple respondents. The college also reserves the right to delay, for the respondent, conferring of degree, certification, or letter of recognition and access to official transcripts until completion of the sexual misconduct process.

## **V. Resolution Procedures**

### **A. Informal Resolution Procedures**

An informal resolution is a process whereby remedies and interventions may serve to address the alleged conduct without proceeding to an investigation and adjudication. An informal resolution, including mediation, is not appropriate in sexual violence cases and will not be used at the college. Sexual violence includes sexual assault, dating violence, and domestic violence. Neither party is required to accept responsibility for the alleged conduct in order to proceed with an informal resolution. Either party may decide not to proceed with informal resolution and may request an investigation and adjudication at any time. The Title IX Co-coordinator or designee has the discretion to determine whether a complaint is appropriate for an informal resolution and retains discretion to terminate an ongoing informal resolution process at any time. The purpose of an informal resolution is to take appropriate action by imposing individual and community interventions and remedies designed to maximize the complainant's access to educational, extra-curricular, and/or employment activities at the college; and/or to address the effects of the conduct on the larger college community. Any combination of interventions and remedies may be utilized, including but not limited to:

- Increased monitoring, supervision, and/or security at locations or activities where the alleged conduct occurred or is likely to recur;
- Targeted or broad-based educational programming or training for relevant individuals or groups;
- Academic modifications for complainants;
- Workplace modifications for complainants;

- Completion of projects, programs, or requirements designed to help the respondent manage behavior, refrain from engaging in prohibited conduct, and understand why the prohibited conduct is prohibited; and
- Compliance with orders of no contact that limit access to specific college buildings or areas or forms of contact with particular persons.

The imposition of remedies or interventions obtained through an informal resolution may be achieved by an agreement acceptable to the parties and college. The Title IX Co-coordinator or designee will facilitate the development of this agreement. In such cases where an agreement is reached, the terms of the agreement are implemented and the matter is resolved and closed. In cases where an agreement is not reached and the Title IX Co-coordinator or designee determines that further action is necessary, or if a respondent fails to comply with the terms of the informal resolution, the matter may be referred for investigation and adjudication. Where the complainant, respondent, and the college have reached an informal resolution agreement, the parties will be provided with a written copy of the agreement. Accepting an informal resolution does not mean that the respondent admits responsibility; nor does it mean that there has been a finding of a policy violation. The Title IX Co-coordinator or designee will maintain all records of matters referred for informal resolution.

#### B. Grievance and Adjudication Procedures for Complaints Against Students

Any alleged violation of this sexual misconduct policy may be adjudicated under the procedures outlined by the HCC student code of conduct in the case of an alleged violation by a student at HCC. These procedures may also be used to address collateral misconduct occurring in conjunction with harassing or discriminatory conduct (e.g., vandalism, physical abuse of another, etc.). 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, 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 allegations and 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.
- The investigator(s) for the incident will serve as a non-voting member(s) of the student conduct committee panel.
- 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.
- Medical and counseling records are privileged and confidential documents, which students will not be required to disclose as evidence for the discipline process.
- 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 or investigator, and the process will continue. If the adviser does not appear at the hearing or related meetings, after proper notice to the complainant or respondent, the 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 and 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. The 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. 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 an appeal is granted based upon new and significant evidence, either party will have the opportunity to respond to the evidence. 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.

- The vice president will act on appeals based upon the report filed by the hearing committee chairperson or designee, the student's written brief, and any written response or memorandum prepared by college officials. All written materials considered by the vice president will be subject to inspection, in accordance with the Family Educational Rights and Privacy Act. New evidentiary hearings will not be conducted in appeals.

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 Co-coordinator or designee.

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.

Institutional sanctions as outlined in the HCC student code of conduct include:

1. Letter of warning.
2. Fines: Previously established and published fines may be imposed.
3. Restitution of property or personal relationships with others, denial of certain privileges, or restriction of activities.
4. Loss of privileges – Denial of specified privileges for a designated period of time.
5. Discretionary sanctions: Including, but not limited to, work assignments, essays, service to the college, mandated assessment and/or counseling, workshop attendance, behavioral contracts, and monitoring or related activities.

6. Student conduct probation: Prohibits the student from representing the college or participating in student activities without prior permission from the office of student conduct. Probation also subjects the student to immediate suspension if found in violation of another offense during the period of probation.
7. Administrative withdrawal from course(s): Student is withdrawn from the course(s) where the violation occurred for the remainder of the academic term.
8. Suspension: Exclusion from college premises, and other privileges or activities, as set forth in the suspension notice.
9. Expulsion: Permanent termination of student status, and exclusion from college premises, privileges and activities.
10. Revocation of admission and/or degree: Admission to or a degree awarded by the college may be revoked for fraud, misrepresentation, providing other false information, or other violation of college standards in obtaining the degree or admission to the college

### C. Adjudication Procedures for Complaints Against Employees

Charges of sexual misconduct against employees will be investigated by a trained investigator either from within the Human Resources Office or in another campus department, under one of two models:

- (1) An investigation will be conducted and its findings will be reported to the Title IX Co-coordinator in the Human Resources Office. The Title IX Co-coordinator in the Human Resources Office will make a decision regarding the outcome of the investigation.
- (2) The Title IX Co-coordinator in the Human Resources Office will conduct the investigation independently and make a decision regarding the outcome of the investigation.

The investigatory model used will be chosen by the Title IX Co-coordinator and will depend on the resources available at the time of the complaint and the nature of the complaint. In either model of investigation, the following will apply:



- 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 and used in any Title IX fact-finding and related proceedings.
- The parties to the proceeding will have equitable rights including: notice of investigative meetings; 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; the opportunity to suggest questions to be asked of the other parties in the proceeding; similar and timely access to information to be used in making a decision.
- 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 investigator. Disruptive advisers will be removed from the process at the discretion of the investigator, and the process will continue. If the adviser does not appear at the meeting, after proper notice to the complainant or respondent, the process will continue in the adviser's absence.
- Both parties will be notified of the outcome of the investigation concurrently, to the extent possible.
- Outcomes of investigations that result in recommendations for suspension or dismissal of employees will follow HCC policy and procedures described under 63.12 (Suspension and Dismissal Policy).
- Either party may appeal the decision of the Title IX Co-coordinator in writing to the vice president of administration and finance (VPAF). The written appeal must be submitted to the VPAF within 15 calendar days of the date the original written decision is issued. The VPAF will determine the steps in the appeal review, and will issue a decision in a timely fashion. The decision of the VPAF is the final decision of the college's internal process. For cases involving the VPAF, the

President will manage the appeal. In cases where the suspension or dismissal of an employee is recommended, the appeal process outlined under policy 63.12 will supersede the appeal process outlined above.

Possible sanctions for outcomes of this process are:

1. Discretionary sanctions
2. Suspension
3. Termination

## **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, including athletes and other campus leaders, and employees.

#### B. Annual Training Related to Implementation of Policy

HCC employees will receive biennial training on how to report incidents of sexual misconduct as well as how to effectively support complainants. In addition, public safety personnel, the Title IX coordinator, Title IX deputies, 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 or Co-coordinators 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 or designee 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 or designee 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 designee 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.

## **VIII. 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, 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 or designee 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 referenced above may subject the offending party to disciplinary action. Employee disciplinary action will follow

guidelines outlined in [policy 63.12, Suspension and Dismissal](#). Student disciplinary action can include, but is not limited to, suspension or expulsion.