



# **Sexual Misconduct and Non-Discrimination Policy and Reporting, Investigation, Decision, Sanctions, and Appeal Policy Procedures**

# **SEXUAL MISCONDUCT POLICY**

## **INTRODUCTION**

Members of the Carroll Community College community, guests and visitors have the right to be free from all forms of sex-based discrimination, which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. Sexual Misconduct is a form of sex discrimination prohibited by federal and state discrimination laws, including Title IX of the Education Amendments of 1972, 2020 Title IX Regulations (34 C.F.R. Part 106) and Title VII of the Civil Rights Act. Some forms of possible Sexual Misconduct violate the laws of the State of Maryland, including sexual orientation or gender identification. This Policy applies to the extent permitted by applicable law.

All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. Serious sanctions will be used to reasonably ensure that such actions are never repeated. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated.

## **OVERVIEW OF POLICY EXPECTATIONS WITH RESPECT TO PHYSICAL SEXUAL MISCONDUCT**

The expectations of our community regarding sexual misconduct can be summarized as follows: In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity.

Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex.

Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation.

Individuals who consent to sex must be able to understand what they are doing. Under this policy, "No" always means "No," and "Yes" may not always mean "Yes." Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a "No."

## **OVERVIEW OF POLICY EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS**

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor, and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of the faculty/staff handbooks. The College does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the College. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student, staff-staff) are strongly discouraged.

Romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor and will likely result in the necessity to change the employee or the supervisory or evaluative responsibilities or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship. While no relationships are strictly prohibited by this policy, failure to self-report such relationships to a supervisor as required may result in disciplinary action for an employee.

Any incidents of potential sexual misconduct should be reported by students; faculty and staff are required to report. Incidents are to be reported to the Title IX Coordinator following the Sexual Misconduct Reporting, Investigation, Decision, Sanctions, and Appeal Policy Procedures found later in this document.

In initial College investigations, legal terms like "guilt," and "innocence" are not used. The College never assumes a student, faculty, or staff member is in violation of College policy. College investigations are conducted to consider the totality of all evidence available from all relevant sources. When a complaint of sexual misconduct is made the College will use a preponderance-of-the-evidence (i.e., more likely than not) standard in any proceedings, including any fact-finding, investigation, and decision-making unless a relevant statute or rule requires a different evidentiary standard.

## **EMERGENCY REMOVAL, ADMINISTRATIVE LEAVE AND SUPPORTIVE MEASURES**

The College reserves the right to take whatever measures it deems necessary in response to an allegation of sexual harassment to protect student, faculty, and staff rights and personal safety. This may include emergency removal of a respondent if it is determined that there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment, in which case the respondent will have an opportunity to appeal the emergency removal decision by submitting an appeal in writing to the Appeals Officer. The Title IX coordinator can provide information related to the appeals process.

In addition, a non-student employee respondent may be placed on administrative leave during the investigation and grievance process.

Supportive measures are “individualized services” reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment. Supportive measures may be provided to both complainant and respondent before or after the filing of a formal complaint, or where no formal complaint has been filed. Such measures may include but are not limited to, class or schedule changes, leaves of absence, increased security and monitoring of certain areas of the campus, and the imposition of a “No Contact” order to both parties. The College will consider the concerns and rights of both the complainant and the respondent and will make every effort to avoid depriving any student of their education. Consideration of supportive measures will be made available to both parties. Determination of supportive measures will be made based on the information available at the time of consideration.

## **RIGHTS AND RESPONSIBILITIES**

The College will provide notice of grievance procedures, including rights and how to file a complaint to students, and employees.

The College will designate and follow a reasonably prompt time frame for major stages of the grievance process.

The College will ensure an adequate, reliable and impartial investigation of complaints, including the opportunity to present witnesses and other evidence.

The College will take steps to prevent the recurrence of sexual misconduct and to remedy its discriminatory effects, as appropriate.

The College will ensure institutional interests do not interfere with the impartiality of the grievance process.

Rights afforded to the parties will be on equal terms in all matters during the investigation, supportive measures, decision making, and resolution.

## **PROHIBITED CONDUCT:**

**This provides definitions and guidance about important protections related to:**

1. Sexual Harassment
2. Sexual Assault, Dating Violence, Domestic Violence, and Stalking
3. Retaliation

## **DEFINITIONS:**

### **1. Sexual Harassment**

Sexual Harassment includes conduct on the basis of sex that satisfies one or more of the following:

- Unwelcome conduct that a reasonable person would consider to be so severe, pervasive, and/or objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
- An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct.
- Sexual assault, dating violence, domestic violence, or stalking as defined in this policy.

### **2. Sexual Assault**

Any sexual act directed against another person, without consent, including instances where the victim is incapable of giving consent. Sexual Assault includes Rape, Statutory Rape, Fondling, and Incest as defined below:

a. Rape- The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, regardless of the age of the victim, if the victim did not consent or if the victim was incapable of giving consent.

b. Statutory Rape- Generally, this involves sex with a minor by a person 4 years or more older, or by a person in a position of authority.

c. Fondling- The touching of the private body parts of another person without the consent of the person subject to the touching, including instances where the person subject to the touching is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.

### **3. Consent:**

Consent must be clear, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (the conditions of) sexual activity.

- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Previous relationships or prior consent cannot imply consent to future sexual acts.

Sexual activity with someone who one should know to be -- or based on the circumstances should reasonably have known to be -- mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), constitutes a violation of this policy.

Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction).

This policy also covers a person whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of so-called date rape drugs. Possession, use and/or distribution of any of these substances, including, but not limited, to flunitrazepam (Rohypnol), ketamine, gamma-hydroxybutyric acid (GHB), gamma-butyrolactone (GBL), burundanga (scopolamine), etc. is prohibited, and administering one of these drugs to another student, faculty or staff member is a violation of College policy. More information on these drugs can be found from the Office of Women's Health in the U.S. Department of Health & Human Services. <https://womenshealth.gov/a-z-topics/date-rape-drugs>

A responding party's use of alcohol or other drugs is not a mitigating factor.

The sexual orientation and/or gender identity of individuals engaging in sexual activity is not relevant to allegations under this policy.

### **4. Force:**

- Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent ("Have sex with me or I'll hit you. Okay, don't hit me, I'll do what you want.").
- Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point likely is coercive.
- There is no requirement that a party resists the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of

force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

## **5. Dating Violence**

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant, and the existence of such a relationship shall be determined based on the complainant's statements, with consideration of length of the relationship, type of relationship, and frequency of interaction between the persons involved in the relationship.

## **6. Domestic Violence**

Violence committed by:

- a current or former spouse or intimate partner of the complainant;
- a person with whom the complainant shares a child in common;
- a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner;
- a person similarly situated to a spouse of the complainant; or
- any other person against a complainant who is protected from those acts under the domestic or family violence laws of Maryland.

*Domestic violence can be a single act or a pattern of behavior.*

## **7. Stalking**

Engaging in a course of conduct, directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress. The course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means – follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. Stalking includes unwanted, intrusive, or frightening communications by phone, mail, texting, social media, and email.

## **8. Retaliation**

Any adverse employment educational action, or other interference with programs taken against a person because of the person's participation in a complaint or investigation of discrimination or sexual harassment. Retaliation will not be tolerated.

## **SANCTION STATEMENT**

The purpose of sanctioning is to decide how best to enforce the College's Sexual Misconduct Policy. Sanctions will represent a proportionate response to the violation.

Any student, faculty, or staff member found responsible for violating the College's Sexual Misconduct Policy will receive a sanction ranging from warning to expulsion or termination of employment, depending on the severity of the incident, and considering any previous violations.

The College reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. The College will not deviate from the range of recommended sanctions unless compelling justification exists to do so.

## **NON-CONFIDENTIAL REPORTING**

All staff and faculty of Carroll Community College are responsible reporters who must report any information relating to sexual misconduct.

You are encouraged to speak to officials of the College to make formal reports of incidents of sexual misconduct. Notice to them is official notice to the College. You have the right and can expect to have reported incidents treated seriously by the College when formally reported and to have those incidents investigated and properly resolved through the grievance procedures.

You also have the right not to file a formal complaint. All reports of sexual misconduct will be treated as serious, regardless of whether the reporting party files a formal complaint or not. A formal complaint is a written document signed by a complainant or the Title IX Coordinator alleging sexual misconduct against a respondent about conduct within its education program or activity requesting initiation of the school's grievance procedures. When a formal complaint is filed, the College will complete an investigation, and a live-recorded hearing with a panel of Hearing Officers to determine if any policy violations have occurred. When a hearing becomes appropriate, involved persons will be advised of the rules and their rights concerning appearances, presentation, and burdens of proof. If a complainant elects not to file a formal complaint, the College will respond by offering supportive measures and weigh any request not to proceed with an investigation against the College's obligation to provide a safe and non-discriminatory environment for all members of the campus community.



## **To Report Confidentially**

If one desires details of an incident be kept confidential, they should speak with off-campus rape crisis resources, licensed health and mental health care providers, licensed counselors or members of the clergy and chaplains to determine under what circumstances such individuals are able to maintain confidentiality. If you are unsure of someone's ability to maintain confidentiality, ask before you talk to them. The College cannot ensure confidentiality.

The following organizations are available to provide confidential support:

- **Carroll County Domestic Violence Hotline – 443-865-8031**
- **CARE Healing Center** – Website: [www.carehealingcenter.org](http://www.carehealingcenter.org)  
**24 hour helpline: 410-857-7322 Phone: 410-857-0900 V/TTY**  
**Address:** 224 N. Center St, #102, Westminster, MD 21157
- **Maryland Coalition Against Sexual Assault (MCASA)** – Website: [www.mcasa.org](http://www.mcasa.org)
- **Carroll Hospital Center**, 200 Memorial Avenue, Westminster, MD 21157  
**Phone: 410-386-3000; TTY: 410-386-7186**
- **Adult Sexual Assault Forensic Examiner (S.A.F.E.)**  
**Program Website:** <https://www.lifebridgehealth.org/patient-services/adult-safe>  
**Phone: 410-871-6655**

## **Limited Amnesty for Students who Report Sexual Misconduct**

In an effort for Carroll Community College to encourage reporting of alleged sexual misconduct, relationship violence, and stalking violations, neither complainant nor witnesses will face discipline for action under the College's Standards of Student Conduct because they personally engaged in the unlawful or prohibited use of alcohol or drugs during the incident when the alleged violation occurred. Amnesty is a limited opportunity given to complainants and witnesses who in good faith come forward and report allegations of sexual misconduct. The College does not want the fear of receiving disciplinary action and/or a disciplinary sanction to prevent a student from reporting an incident of sexual misconduct. Amnesty does not extend to a person who violates this Sexual Misconduct Policy. Please note that amnesty applies only to the personal use of alcohol or drugs and does not extend to other potential violations of the Standards of Student Conduct that may have been committed, even if the student may have been under the influence of alcohol or drugs at the time the alleged violations were committed.

This policy prohibits the imposition of a campus conduct action, except for a mandatory intervention for substance abuse, for a violation of the alcohol or drug use policies of the College by a student who reports to the College or a law enforcement officer an incidence of sexual assault or who participates in an

investigation and/or live recorded hearing of a sexual assault as a witness if:

- The College determines the violation occurred during or near the time of the alleged sexual assault;
- The student is determined to have made the report of sexual assault or is participating in an investigation and/or as a witness in good faith; and
- the College determines that the violation was not an act that was reasonably likely to place the health or safety of another individual at risk.

The severity of the infraction will determine the nature of the College's response, but whenever possible the College will respond educationally rather than punitively to the illegal use of drugs and/or alcohol. The seriousness of sexual misconduct is a major concern and the College does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct.

### **Timely Warning Reporting Obligations**

College administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The College will make every effort to ensure that a complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

### **Bystander Intervention**

Important to the prevention and intervention of sexual misconduct at Carroll Community College is the response of individuals who are bystander observers or witnesses to the sexual misconduct. Individuals who observe or witness any misconduct, while not directly involved, have the choice to act by intervening directly, e.g., asking if the person perceived to be in trouble is okay or initiating action (verbal or nonverbal) to attempt to stop the offender, dialing 911 to contact law enforcement, dialing 8123 on campus to reach campus police, and/or contacting other persons of authority at the College. Help protect your friends and colleagues by intervening as appropriate for the situation. If you observe or witness sexual or other misconduct, please say something. If you believe that it is not safe for you to directly intervene in a situation, at a minimum, immediately dial 911, 8123 on campus, or contact the appropriate College authorities. All Carroll Community College students and employees are expected to be aware of and abide by the College security procedures and practices in this document and the College encourages students and employees to be responsible for their own safety and the safety of others.

**Campus Resources:**

- **Campus Police –Carroll Community College**; Campus Phone Ex 8123; 410-386-8123
- **Title IX Coordinator**: Robert Brown, Senior Director of Institutional Integrity, Compliance, and Accreditation 410-386-8224 -Email: [titleix@carrollcc.edu](mailto:titleix@carrollcc.edu); office: A117
- **Title IX Deputy Coordinator**: Lisa Kuhn, Director of Human Resources, 410-386-8032; office: A138

**Counseling Resources/Off campus resources:**

- **Carroll County Domestic Violence Hotline** – 443-865-8031
- **CARE Healing Center** [www.CAREHealingCenter.org](http://www.CAREHealingCenter.org)  
Hotline: 410-857-7322 Phone: 410-857-0900 V/TTY  
Address: 224 N. Center Street #102, Westminster, MD
- **Maryland Coalition Against Sexual Assault (MCASA)**  
Website: [www.mcasa.org](http://www.mcasa.org)
- **Carroll County Sheriff Office** – 100 North Court Street, Westminster, MD  
Emergency: 911 Phone: 410-386-2900
- **Maryland State Police** –Barrack G –1100 Baltimore Blvd., Westminster, MD  
Phone: 410-386-3000
- **Carroll Hospital Center**, 200 Memorial Avenue, Westminster, MD  
Phone: 410-386-3000; TTY: 410-386-7186
- **Adult Sexual Assault Forensic Examiner (S.A.F.E.) Program Website:**  
<https://www.lifebridgehealth.org/patient-services/adult-safe>  
Phone: 410-871-6655

## **COMMONLY ASKED QUESTIONS AND ANSWERS**

Here are some of the most asked questions regarding Carroll Community College's sexual misconduct policy and procedures.

*Does information about a complaint remain private?*

The privacy of all parties to a complaint of sexual misconduct will be respected as much as possible. Still, the College has an obligation to fully investigate allegations of sexual misconduct. The College will consider the need to maintain privacy of individuals involved and weigh it against the College's obligation to provide a safe and non-discriminatory environment for all members of the campus community. Where privacy is not strictly kept, it will be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted. Violations of the privacy of the complainant or the respondent may lead to disciplinary action by the College. The complainant has the right to file criminal charges through the assistance of the Carroll County Sheriff's Office. The complainant has the right to seek and receive trauma-informed service through outside resources, and to be assured of cooperation by the College to improve the overall response to sexual assault by the College.

All parties will be informed of the outcome. In some instances, the administration also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the complainant or respondent. Certain College administrators are informed of the outcome within the bounds of student privacy (e.g., the President of the College, appropriate vice president (s), Chief of Campus Police). If there is a report of an act of alleged sexual misconduct to a Title IX Coordinator or Chief of Police of the College and there is evidence that a felony has occurred, local police will be notified. This does not, however, mean that charges will be automatically filed or that a complainant must speak with the police. The College also will statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

*Will my parents be told?*

No, not unless you tell them, or sign a FERPA waiver that allows them access. Whether you are the complainant or the respondent, the College's primary relationship is with the student and not the parent. However, in the event of major medical, disciplinary, or academic jeopardy, students are strongly encouraged to inform their parents. College officials will directly inform parents when requested to do so by a student, in a life-threatening situation, or if the complainant or the respondent has signed the permission form to release information to parents, which allows such communication.

*When I name a person in a complaint, will that person know my identity?*

Yes, if you file a formal complaint. Sexual misconduct is a serious offense, and the respondent has the right to know the identity of the complainant/alleged victim. If there is an investigation requiring both parties, the College will advise the complainant and the respondent of the rules and their rights.

*Do I have to name the respondent?*

Yes, in order for disciplinary action to be taken against the alleged respondent. No, if you choose to respond informally and do not file a formal complaint (but you should consult the *Non-Confidential Reporting* section of the policy above to better understand the College's legal obligations depending on what information you share with different College officials). Complainants should be aware that not identifying the respondent might limit the institution's ability to respond comprehensively.

*What do I do if I am named in a sexual misconduct complaint?*

DO NOT contact the alleged complainant. You may immediately want to contact someone who can act as your advisor; anyone may serve as your advisor. You may also contact the Title IX Coordinator, Robert Brown (410-386-8224), or Deputy Title IX Coordinator, Lisa Kuhn (410-386-8032), who can explain the College's procedures for addressing sexual misconduct complaints. You may also want to seek other community assistance.

*What should I do about preserving evidence of a sexual assault?*

Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault must be collected from the alleged victim's person as soon as possible, though evidence can often be obtained from towels, sheets, clothes, etc. for longer periods of time. If you believe you have been a victim of a criminal sexual assault, you should go to the Carroll Hospital Center Emergency Room, before washing yourself or your clothing. The Sexual Assault Nurse Examiner (a specially trained nurse) at the hospital is on call 24 hours a day, 7 days a week (call the Emergency Room if you first want to speak to the nurse; the Emergency Room will refer you). A College staff member from Campus Police or from Student Affairs can also accompany you to the Hospital and law enforcement or Campus Police can provide transportation. Having the evidence collected in this manner will help to keep all options available to a victim, but will not obligate her or him to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the victim decide later to exercise it.

Once involved, the hospital staff will collect evidence, check for injuries, or arrange for medical care, address pregnancy concerns and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean

paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and that person can accompany you through the exam, if you want.

Do not disturb the scene of the reported incident — leave all sheets, towels, etc. that may bear evidence for the police to collect.

*Will a complainant be sanctioned when reporting a sexual misconduct policy violation if they have illegally used drugs or alcohol?*

Generally, no, the Limited Amnesty for Students who Report Sexual Misconduct section earlier in this policy explains.

*Will the use of drugs or alcohol affect the outcome of a sexual misconduct complaint?*

It may be factor in a decision. The use of alcohol and/or drugs by either party ordinarily will not diminish the respondent's responsibility. Alcohol and/or drug use is likely to affect memory and, therefore, may affect available evidence.

*Will either party's prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?*

Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present complaint.

*What should I do if I am uncertain about what happened?*

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation of the institution's sexual misconduct policy, you should contact the Title IX Coordinator, or Campus Police. If requested, the Campus Police will assist in contacting local law enforcement authorities

*What counseling or referral services are available?*

The College offers counseling referrals from a number of county and state organizations, including mental health services and the nearest State designated rape crisis program. See the resource list in this Policy for a comprehensive list of available resources.

# **Sexual Misconduct Reporting, Investigation, Decision, Sanctions, and Appeal Policy Procedures**

Members of the Carroll Community College community, guests, and visitors have the right to be free from all forms of sexual misconduct and discrimination, examples of which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. Sex-based discrimination includes protection for sexual orientation, gender identity, parental status, pregnancy and related conditions, such as lactation.

All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The College believes in a zero-tolerance policy sexual misconduct. When an allegation of misconduct is brought to a Title IX Coordinator's attention, and a respondent is found to have violated this policy, serious sanctions will be used to reasonably ensure that such actions are never repeated. All Respondents have the presumption of not responsible for policy violation until the hearing officers reach a determination.

## **REPORTING, INVESTIGATION AND DECISION**

All College faculty and staff are required to report sexual misconduct to the Title IX Coordinator: Robert Brown (410) 386-8224.

Before discussing an incident with a complainant, all faculty or staff members must inform the complainant of staff responsibility to report the incident to the Title IX Coordinator. The College will provide information to the complainant about the counseling resources listed in this policy. The College will inform the complainant of the opportunity to make a report of the incident to the Campus Police and to local law enforcement if they would like to do so. Victims have the right to file criminal charges with local law enforcement. The Title IX Coordinator and Campus Police may assist the individual in making a report to the College and to local law enforcement.

The Title IX Coordinator, after having an incident reported to them, will determine whether the grievance process applies and, depending on the nature of the incident, the necessity of informing Campus Police and local law enforcement.

Supportive measures, provided before or after a formal complaint is filed, or when no complaint is filed, may include but are not limited to the following:

- Campus Police can offer personal escorts at any time, reserve a parking space near classroom buildings, coordinate with local law enforcement for safety checks off campus, and provide internal emergency phone contact numbers.

- The Title IX Coordinator may immediately offer alternate course sections for the complainant and/or the respondent, issue a no-contact order to both the complainant and/or respondent, and/or offer other supportive measures. The Title IX Coordinator will make every effort to minimize interruption to educational access for both parties.

If a respondent is removed from campus based on a determination that the respondent is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment, the respondent will have an opportunity to submit a written appeal of the emergency removal decision to the Title IX Coordinator at: [titleix@carrollcc.edu](mailto:titleix@carrollcc.edu), Office A117, within 10 days of the date that notice of the emergency removal is provided. The appeal will be reviewed and decided by an individual who is trained to serve as an Appeals Officer.

### **INFORMAL RESOLUTION PROCESS**

An informal resolution process may be utilized that is mutually voluntary and does not involve a full investigation and adjudication. The complainant may request an informal resolution. The College will participate in the informal resolution by providing trained staff to conduct the meetings. An informal resolution is permissible if:

- The complainant requests an informal mechanism.
- All parties voluntarily agree, and provide written consent, to engage in informal resolution.
- Parties have received a full disclosure of the allegations.
- Parties have received a full disclosure of their resolution options.
- Either the complainant or respondent can end the informal process at any time in favor of a formal resolution proceeding.
- The alleged misconduct does not involve sexual assault (non-consensual sexual intercourse or contact) or sexual coercion.
- The allegations do not involve sexual harassment or misconduct by an employee against a student.
- The College determines the complaint is appropriate for informal resolution.

### **ATTORNEYS, NON-ATTORNEY ADVISORS, AND PERSONAL SUPPORTERS**

Both the complainant and the respondent are permitted to be accompanied by a personal supporter of choice, a licensed attorney, an advocate supervised by an attorney, or an advisor/advocate during any interview, meeting, or disciplinary proceeding under the formal investigation process described in this Policy. No more than two persons may accompany the involved party, including a personal supporter, an attorney, or a non-attorney advocate. During the Live recorded hearing in front of the Hearing Officers, an advisor of the complainant's choice and respondent's choice, who may or not be an attorney or non-attorney advocate, will be allowed to cross question all parties and witnesses. The chosen advisors may ask questions after the Hearing Officers have questioned of all parties and witnesses involved in the formal complaint. Attorneys and non-attorney advocates are not direct participants in the investigation process occurring prior to the Live recorded hearing. Their role is to attend proceedings, consult privately with the involved party and/or assist with



exercise of rights. Complainants or respondents who do not have a chosen advisor will be appointed a trained advisor by the College, if they so choose.

### **PAID LEGAL REPRESENTATION FOR STUDENTS**

In accordance with Maryland law, and subject to funding, any current or former student who makes a complaint or responds to a complaint on which a formal Title IX investigation is initiated, and who was enrolled as a student at Carroll Community College at the time of the incident giving rise to the complaint, is authorized to access counsel paid for by the State for attendance at interviews, meetings and/or disciplinary proceedings, in accordance with applicable law and regulations. Students may select an attorney from available resources provided by the Maryland Higher Education Commission (Commission), located at <https://mhec.maryland.gov/Pages/Title-IX-Campus-Sexual-Assault-Proceedings.aspx> or may select an independent attorney, in which case students should speak with their counsel and/or the Commission to access payment of reasonable attorney's fees by the State equivalent to those paid under civil legal services programs administered by the Maryland Legal Services Corporation. The Commission is not required to pay a student's attorney's fees for representation in a criminal or civil matter.

Students may select and retain an attorney prior to conclusion of the formal Title IX proceedings. Students will not be discouraged from retaining an attorney.

### **INVESTIGATIONS, DECISIONS, AND SANCTIONS**

- If it is determined by the Title IX Coordinator that a complaint alleges conduct that: (1) did not occur against a person in the United States; (2) would not constitute sexual harassment, within the meaning of Title IX, or Maryland law, even if proven; or (3) did not occur in a College education program or activity, within the meaning of Title IX, then the complaint will be dismissed for purposes of Title IX only, with written notice provided to the complainant and respondent. Nothing, however, precludes the College from addressing conduct that is outside the scope of Title IX, under other applicable policy or procedures, including the College's Equal Employment Opportunity Complaint Procedure or Disciplinary Action Policy (for employees), or the College's Integrity Council Hearing Process. If a complaint is dismissed because the allegations are outside the scope of Title IX, the College will determine whether the complaint alleges conduct that is covered by other College policy, and will then decide the appropriate College procedure for any further investigation and resolution. The Title IX Coordinator will be free from conflicts of interest or bias for or against complainants or respondents.
- When a decision is made to investigate an incident, appropriate parties will be provided details regarding hearings, presentation of evidence, and burdens of proof. The Notice of Investigation will include sufficient details including the identity of the parties involved, specific policies allegedly violated, the precise misconduct alleged, and the date and location of the alleged incident.

- The College will provide for a prompt, impartial and equitable resolution of complaints of sex discrimination, including sexual misconduct. The College will ensure an adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence.
- If warranted, the Title IX Coordinator will remain available to both complainant and respondent to investigate the case, initiate initial supportive measures, inform all parties in writing regarding the initiation of investigation and supportive measures and designate a team of two trained Title IX College investigators to investigate in tandem as neutral parties.
- Involved parties have the right to the following:
  - Access case files and evidence regarding the incident with personally identifiable information redacted;
  - Opportunity to provide testimony to the Hearing Officers during live recorded hearing;
  - Opportunity to submit evidence, witness lists and suggested questions to be posed to the other involved party by their advisors during live recorded hearing;
  - Opportunity to provide testimony via other means that does not require physical presence with the other involved party;
  - Opportunity to review and provide written responses to reports and proposed findings.
- The Title IX Coordinator will provide both parties with written notice of any meetings and interviews with sufficient time to prepare for meaningful participation.
- The College will provide the complainant, the respondent, and appropriate officials with timely and equal access to any information that will be used during the informal or formal disciplinary meetings.
- Trained investigator(s) will analyze and document the available evidence to support reliable decisions; objectively evaluate the credibility of parties and witnesses; synthesize all available evidence, including both inculpatory and exculpatory evidence; and take into account the unique and complex circumstances of each case.
- The investigator(s) will be free from conflicts of interest or bias for or against complainants or respondents.

The Title IX Coordinator will inform all parties in writing of the progress of the investigation.

- Following their investigation, the investigator(s) will provide the report to the Title IX Coordinator for review. The Title IX Coordinator will arrange an opportunity for each party to review the report. The complainant and respondent will each be provided ten (10) business days, from the date the report is available for review, to submit to the Title IX Coordinator a written

response to the report. The Title IX Coordinator may make adjustments to the report based on the responses received and will provide a final review of the report to the complainant and respondent on or before ten (10) business days prior to any scheduled hearing.

- If it is determined that the complaint should proceed under the College's Sexual Misconduct Policy grievance procedure, The Title IX Coordinator will then forward the report, evidence, and any written responses to the trained Hearing Officers. Prior to the live recorded Hearing with the Hearing Officers, the Title IX Coordinator will confirm the complainant and respondent have advisors to cross question parties involved. If either the complainant or respondent do not have an advisor available, the College will assign a trained advisor for cross-questioning during the live hearing. If an advisor is refused or unavailable, the live hearing will not proceed and may need to be rescheduled.
- Three (3) trained Hearing Officers will host a live-recorded hearing where all involved parties, complainant, respondent, and witnesses will be questioned in regard to the complaint and investigation. The Hearing Officers will question all parties first. This will be followed by the cross questioning by the complainant's advisor and then the respondent's advisor. The complainant and the respondent will not directly cross-examine each other during the hearing. After all questioning is complete, the Hearing Officers will make a determination of responsibility. To reach a finding of responsible, the evidentiary standard of a preponderance of the evidence will be used unless by rule or statute another evidentiary standard is required. This standard is the same standard of evidence used to evaluate any other administrative, academic, or disciplinary violation at the College.
- The Hearing Officers will determine whether sexual harassment or other gender-based (within applicable law) or sexual misconduct has occurred, using a preponderance of the evidence standard, unless a different standard is required by statute or governing regulation. The Hearing Officers will inform all parties in writing of the decision and sanctions.
- The Hearing Officers will be individuals who are trained employees of the College/Recipient. Three (3) Hearing Officers will be hosting the live, recorded hearing for cross-examination of all parties involved and will make a determination of any policy violation. Hearing Officers will be free from conflicts of interest or bias for or against complainants or respondents.
- The complainant or the respondent may accept the decision and sanctions of the Hearing Officers or appeal the decision or sanctions in writing. See below, Appeal of Hearing Officers' Decision and Sanctions.
- To achieve a balanced and fair process for resolving complaints of sexual harassment and misconduct, the following considerations will be afforded to both parties:
  - During the investigation, the parties will not cross-question each other.

Cross-questioning will occur during the Live Recorded Hearing by the parties' chosen advisors after the Hearing Officers have had an opportunity to ask questions.

- No questions or evidence will be permitted about sexual history except for that between the parties, or to prove that someone other than the respondent committed the conduct alleged by the complainant.
- This policy prohibits consideration of evidence about an involved party's mental health unless the party has given consent.
- All proceedings will be concluded in a timely manner after the initial notice of the complaint.
- All parties will be afforded the same opportunity to present witnesses and evidence.
- Adjudication of a complaint by the College will not be delayed because of concurrent criminal or civil investigation or action.
- Supportive measures, such as course schedule adjustments, academic and/or mental health support, escort services, etc., will be provided to the complainant and the respondent as necessary.
- Parties are permitted to be accompanied by a personal supporter and/or an attorney or non-attorney advocate in accordance with College policy.
- A "preponderance of evidence" will be the evidentiary standard used to determine a finding of responsible unless a different standard is required by statute or governing regulation.
- Both parties will be notified, in writing, about the outcome of both the complaint and any appeal.
- An appeal of the findings will be available to both the complainant and the respondent.

## **APPEAL OF DECISIONS OR DISMISSAL OF FORMAL COMPLAINT**

Complainants or respondents who wish to appeal the decision of a formal investigation must submit their appeal in writing within 14 business days of receipt of the decision. Appeals are filed with the Title IX Coordinator at [titleix@carrollcc.edu](mailto:titleix@carrollcc.edu) or at 410-386-8224. The complainant and respondent are each entitled to one appeal.”

- Appeals are limited to the following reasons and may not be pursued on any other bases:
  - Procedural irregularity that affected the outcome of the matter;
  - New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
  - The decision was arbitrary and capricious
- The Appeal Officer will not be the same person as the Hearing Officers that reached the determination regarding responsibility or dismissal, the Investigator(s), or the Title IX Coordinator. The Appeal Officer will review all information and make a final determination. The Appeal Officer will be free from conflicts of interest or bias for or against complainants or respondents.
- The decision and sanctions determined by the Appeal Officer will be final and all parties will be informed.

## **Pregnant and Parenting Students Protections**

Carroll Community College will treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery from pregnancy, and related medical conditions in the same manner and under the same policies as any other temporary disability. As with all temporary disabilities, the College may request a physician’s note or other documentation only if the same requirement is imposed on all other students with conditions requiring doctor’s care. The Senior Director of Institutional Integrity, Compliance, and Accreditation or Office of Disability Support staff have the authority to determine that an accommodation is necessary and appropriate and to inform faculty members of the need to adjust academic parameters accordingly.

Carroll Community College will excuse a student’s absences because of pregnancy or childbirth for as long as the student’s doctor deems the absences medically necessary, which may be verified by the College for good cause. When a student returns to school, she will be allowed to return to the same academic and extracurricular status as before her medical leave began. Students needing accommodations can seek assistance from the Office of Disability Support in A-101 or contact Joe Tatela ([jtatela@carrollcc.edu](mailto:jtatela@carrollcc.edu)) or Kiersten Meyers ([kmeyers@carrollcc.edu](mailto:kmeyers@carrollcc.edu)).

There is a private lactation room in the A building (A-221) for nursing mothers who

would like a private space to pump that is safe and secure. Students and employees seeking access may do so in the Office of Student Engagement (A-118). If the office is closed, contact Campus Police for access. If there are any concerns, please reach out to Rob Brown, Senior Director of Institutional Integrity, Compliance, and Accreditation ([rbrown@carrollcc.edu](mailto:rbrown@carrollcc.edu), 410-386-8224, office A-117) for assistance.

**Applicability and Modifications to this Policy and related Procedures:** These policies and procedures are implemented on an interim basis. The College follows all relevant federal, state, and local laws along with requirements of its accrediting agencies. The College reserves the right to make modifications to the policies and procedures for reasons, including but not limited to, if any court strikes any portions of the 2020 Title IX Regulations (34 C.F.R. Part 106) or any administrative agency orders them suspended or withdrawn. Changes to federal or Maryland law could also necessitate changes to this policy or procedure.

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