
Note: This policy addresses complaints of sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting students and perpetrated by students, employees, or third parties under the control of the College District. For additional legally referenced material relating to discrimination, harassment, and retaliation, see FA(LEGAL), FAA(LEGAL), and FFDA(LEGAL). For complaints of sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting employees, see DIAA. For discrimination, harassment, and retaliation targeting students based on race, color, national origin, religion, age, and disability, see FFDB. For discrimination, harassment, and retaliation targeting employees based on race, color, national origin, religion, age, or disability, see DIAB.

**Statement of
Nondiscrimination**

The College District prohibits discrimination, including harassment, against any student on the basis of sex or gender in the education programs and activities of the College District. The College District also prohibits retaliation against anyone who in good faith reports a violation of this policy or who cooperates in an investigation, disciplinary process, or judicial proceeding arising from such report.

Board members, the College President, administrators, faculty, staff, students, and other individuals subject to the control of the College District shall comply with this policy. This policy applies regardless of the sex, sexual orientation, gender identity, and/or gender expression of the parties. Individuals who violate this policy are subject to discipline up to and including expulsion for students and termination for employees.

An individual who is both a student and an employee shall be treated as a student under this policy.

Title IX Coordinator

The College District designates the following person to coordinate the College District's compliance with federal antidiscrimination laws, including Title IX of the Education Amendments of 1972, as amended, and related state and federal laws:

Title IX Coordinator: Jose Martinez, Title IX Coordinator

Address: P.O. Box 818, Baytown, TX 77522-0818,
Rundell Hall Room 105E

Telephone: (281) 425-6546

Email: [Title IX Coordinator email¹](#) or
josmartinez@lee.edu

Webpage: [Title IX/Sexual Misconduct webpage²](#)

Definitions

The following definitions apply to this policy.

Complainant	In this policy, the term “complainant” refers to an individual who is alleged to be the victim of conduct prohibited by this policy.
Respondent	In this policy, the term “respondent” refers to an individual who allegedly engaged in conduct prohibited by this policy.
Formal Complaint	In this policy, the term “formal complaint” refers to a document filed by a complainant or signed by the Title IX coordinator alleging sexual misconduct against a respondent and requesting an investigation of the allegations.
Sex Discrimination	“Sex discrimination” is the act of treating students disparately on the basis of their sex, sexual orientation, gender identity, and/or gender expression in a manner that adversely affects the students. Disparate treatment is the act of treating similarly situated persons differently, such as applying a different academic standard to students based on their sex or denying a student participation in an activity because of the student’s sexual orientation.
Sexual Misconduct	“Sexual misconduct,” as used in this policy, collectively refers to sexual harassment, sexual assault, domestic violence, dating violence, and stalking.
Sexual Harassment (Title IX)	“Sexual harassment” means conduct on the basis of the student’s sex, sexual orientation, gender identity, and/or gender expression that constitutes: <ol style="list-style-type: none">1. Physical, verbal, or nonverbal conduct by a College District employee in which a College District employee conditions the provision of an aid, benefit, or service of the College District on the student’s participation in unwelcome sexual conduct (“quid pro quo” harassment);2. Unwelcome conduct directed toward a student on the basis of the student’s sex, sexual orientation, gender identity, and/or gender expression by an employee, student, or third party that is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies the student’s ability to participate in or benefit from the College District’s educational program or activities; or3. Conduct that constitutes “sexual assault,” “dating violence,” domestic violence,” or “stalking” as defined in this policy.

Sexual Assault	<p>“Sexual assault” is forcible and nonforcible sex offenses as defined under the uniform crime reporting system of the Federal Bureau of Investigation. Forcible sex offenses are any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Forcible sex offenses include rape, sodomy, sexual assault with an object, and fondling. Nonforcible sex offenses include incest and statutory rape.</p> <p>Sexual assault may include any intentional sexual touching, however slight, including with any object. It may also include intentional contact with the breasts, groin, genitals, mouth, or touching another with any of these body parts, or making another touch the respondent or themselves with or on any of these body parts.</p>
Dating Violence	<p>“Dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.</p>
Domestic Violence	<p>“Domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse, a current or past intimate partner, a person who the victim shares a child with, or by a person similarly situated to a spouse or intimate partner of the victim under the domestic or family violence laws of the state. In the state, a person commits an assault against a family member, household member, or current or past dating partner if the assault consists of:</p> <ol style="list-style-type: none">1. Intentionally, knowingly, or recklessly causing bodily injury to another person;2. Intentionally or knowingly threatening another person with imminent bodily injury; or3. Intentionally or knowingly causing physical contact with another that the offender knows or reasonably should know the victim will find provocative or offensive. <p>A person commits aggravated domestic assault if that person intentionally, knowingly, or recklessly causes serious bodily injury to a family member, household member, or a current or past dating partner, or uses or exhibits a deadly weapon in the course of committing the assault crime.</p>
Stalking	<p>“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for</p>

the person's safety or the safety of others or suffer substantial emotional distress.

Examples

Examples of sexual harassment of a student may include sexual advances; touching intimate body parts or coercing physical contact that is sexual in nature; jokes or conversations of a sexual nature; rape; sexual assault as defined by law; sexual battery; sexual coercion; and other sexually motivated conduct, communications, or contact. Examples of stalking may include cyberstalking or use of the internet or electronic means to harass, intimidate, or frighten another person.

Examples may also include forms of dating violence, domestic violence, or stalking, such as physical or sexual assaults; name-calling; put-downs; or threats directed at the student, the student's family members, or members of the student's household; destroying the student's property; threatening to commit suicide or homicide if the student ends the relationship; tracking the student; attempting to isolate the student from friends and family; threatening a student's spouse or partner; or encouraging others to engage in these behaviors.

Other Inappropriate
Conduct

"Other inappropriate conduct" is conduct on the basis of sex that does not meet the Title IX definitions of sexual harassment, sexual assault, dating violence, domestic violence, or stalking but that adversely impacts the educational environment. The term includes the following:

1. "Sexual harassment" as defined under the Texas Education Code, Section 51.251(5), which prohibits unwelcome, sex-based verbal or physical conduct that is so sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities at a postsecondary educational institution.
2. Unwelcome sexual advances or requests for sexual favors; persistent and unwanted sexual attention; sexual voyeurism (such as watching a person disrobing, using the restroom, or engaging in sexual acts, without the consent of the person observed); unwelcome sexual gestures; public exposure of one's sexual organs on campus or at an event under the control of the College District; displaying obscene materials in a public place on campus; forwarding pornographic or obscene material via email or text message to nonconsenting recipients; recording or photographing sexual activity or a person's genital area or breast area or from a vantage point that a reasonable person would view as an invasion of personal privacy; and allowing a third party to view consensual sex without the knowledge of the other participant(s).

3. Unwelcome comments of a sexual nature that a reasonable person would view as gratuitous, intimidating, offensive, and/or degrading and that adversely impacts an individual's educational environment. In the academic context, including the context of a classroom discussion or preparation of a course assignment, a relevant factor is whether the comments are reasonably related to course content or serve a legitimate pedagogical function. The College District's definitions are not intended to restrict constitutionally protected speech.
4. A consensual sexual or romantic relationship between a student and employee when the student is enrolled in a course being taught, tutored, or supervised by the employee; when the student is being supervised, coached, or advised by the employee in connection with a College District-related activity; and/or when the student is enrolled or working in a program in which the employee has direct or indirect supervisory authority.
5. Conduct of a sexual nature that is consensual between two or more parties but that is nonetheless inappropriate in an educational environment, such as engaging in sexual acts in a campus building.

Consent

Affirmative consent is a clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage in sexual activity. Silence or lack of resistance does not constitute consent. Obtaining consent is the responsibility of the person(s) initiating each specific sexual act regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act. The definition of consent does not vary based on a participant's sex, sexual orientation, gender identity, or gender expression. Consent may be initially given but withdrawn at any time. Consent cannot be given when a person is mentally disabled or incapacitated. Incapacitation occurs when an individual lacks the ability to fully, knowingly choose to participate in sexual activity. Incapacitation includes impairment due to drugs or alcohol (whether such use is voluntary or involuntary), the lack of consciousness, being asleep, or being involuntarily restrained. Consent does not exist when it is the result of any coercion, intimidation, force, or threat of harm. Consent does not exist when the respondent misrepresents the respondent's true identity to the victim.

	<p>Under the Texas Penal Code, victims under the age of 17 cannot give consent as a matter of law. However, it is an affirmative defense to criminal prosecution that the offender was not more than three years older than the victim at the time of the offense; did not use duress, force, or a threat against the victim at the time of the offense; and was not a registered sex offender.</p>
Confidential Employee	<p>A “confidential employee” is a person with a legal duty of confidentiality, such as a counselor or medical provider who holds a professional license and provides therapeutic services, who is supervised by such a person, or a person who is a nonprofessional counselor or advocate designated in administrative procedures as a confidential source. This definition does not apply to persons who hold professional licenses, such as a licensed professional counselor, but whose job responsibilities for the College District do not include the provision of mental health and/or therapeutic services. Further, this definition does not include academic counselors providing academic and personal support in education and career planning.</p>
Days	<p>“Days” shall mean College District business days, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is “day zero.” The following business day is “day one.”</p>
Reporting Procedures Administrative Reports	<p>Any student or other individual may report sexual misconduct or other inappropriate conduct whether or not the person reporting is the alleged victim. Reports may be submitted to the Title IX coordinator in person or by mail, telephone, email, or online portal³. Submitting a report does not obligate a student to file a formal complaint or participate in an investigation.</p> <p>When a student (or someone on the student’s behalf) makes a report to the Title IX coordinator, the Title IX coordinator will notify the student in writing of the student’s rights and options, including how to file a formal complaint if desired and how to request support services or supportive measures. A student may request supportive services or supportive measures without filing a formal complaint.</p> <p>A student shall not be required to report sexual misconduct or other prohibited conduct to the person alleged to have committed the conduct. An allegation against the Title IX coordinator should be reported to the College President. This policy and the College District’s grievance process shall apply to the extent practicable; avoidance of any conflict of interest is paramount. The College President may appoint another administrator or external attorney as may be appropriate to fulfill the duties of the Title IX coordinator in the event such a complaint is filed.</p>
Anonymous Report	<p>The submission of an anonymous report by a complainant, student, or other individual who is not an employee is permissible but</p>

may impair the College District's ability to investigate and address the sexual misconduct or other inappropriate conduct. An employee, who is not the complainant, and observes or receives information of a violation of this policy shall submit a report in accordance with this policy but shall not submit the report anonymously.

Reports to the
Police

The decision whether to report to law enforcement belongs to the complainant. A complainant has the right to choose whether to report the crime to law enforcement, to be assisted by the College District in reporting the crime to law enforcement, or to decline to report the crime to law enforcement. Additionally, regardless of whether the complainant files a police report, the complainant has a right to file an administrative complaint with the College District or to seek support services or supportive measures from the College District. A complainant may request the assistance of the Title IX coordinator in making a police report.

It is important that a victim of sexual misconduct or other inappropriate conduct go to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident.

Mandatory
Employee
Reporting

Any employee, who in the course and scope of the employee's employment, observes or receives information regarding an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, domestic violence, stalking, or other inappropriate conduct that was committed by or against a College District student or employee must promptly report the incident or allegation to the College District's Title IX coordinator or deputy unless an express exception applies. The duty to report applies if, at the time of the incident, the alleged victim or respondent was enrolled at or employed by the College District. The employee shall report all known information regarding the incident, including, if available, the name of the alleged victim, respondent, location, and nature of the incident. If the alleged victim has expressed a desire for confidentiality, the employee shall provide this information to the Title IX coordinator.

"Course and scope of employment" means an employee performing duties in furtherance of the College District's interests.

Employees who failed to make a mandatory report are subject to termination in accordance with the College District's termination procedures. Additionally, the employee is subject to criminal prosecution as stated in Section 51.255 of the Texas Education Code.

An employee who makes a report under this policy may have additional reporting obligations under other law. Employees who are campus security authorities under the Clery Act will have an obliga-

FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION
SEX AND SEXUAL VIOLENCE

FFDA
(LOCAL)

tion to report incidents to the Lee College Security Office in accordance with the Clery Act. Additionally, any employee who has cause to believe that a child's physical or mental health or welfare has been adversely affected by sexual abuse, child abuse, or neglect by any person must report the suspicion as required by Chapter 261 of the Texas Family Code. A child is a person who is 17 years old or younger. An employee who suspects abuse or neglect of a child must within 48 hours report the suspicion to the Texas Abuse Hotline (1-800-252-5400) at the Texas Department of Family and Protective Services (DFPS). If the child is in immediate danger, the employee should first call 9-1-1 and then the Texas Abuse Hotline.

Responsible
Employees

All employees, with the exception of confidential employees, are designated as responsible employees for purposes of compliance with Title IX.

Exceptions

Victims of an alleged incident are not required to report their own incidents.

Disclosure at
Event

A person who received the information solely from a disclosure at a sexual harassment, sexual assault, dating violence, or stalking public awareness event sponsored by a postsecondary educational institution or by a student organization affiliated with the institution is not required to report the prohibited conduct unless the person has the authority to institute corrective measures on behalf of the College District.

Employee
Subject to
Confidentiality
Rules

Absent the student's consent, or unless required by law, a confidential employee shall only be required to disclose the type of incident reported and may not disclose information that would violate the student's expectation of privacy. If multiple confidential employees receive information about the same alleged incident, then only one report disclosing the type of incident must be submitted.

~~Peace Officer~~

~~A College District peace officer who received information regarding the incident from a student who chooses to complete a pseudonym form as described by law shall only be required to disclose the type of incident reported and may not disclose the student's name, phone number, address, or other information that may directly or indirectly reveal the student's identity.~~

Prior Report

A person who has either learned of an incident of prohibited conduct during the course of the College District's review or process, or has confirmed with the person or office overseeing the review or process that the incident has been previously reported, is not required to report the prohibited conduct.

Amnesty

The College District policy prohibits charges against an individual for code of conduct or disciplinary violations that do not involve sex

discrimination or sexual misconduct but arise out of the same facts or circumstances as a report or complaint of sex discrimination or sexual misconduct when the purpose of the charge is to interfere with any right or privilege secured by this policy or Title IX and its implementing regulations.

To encourage reporting of sexual misconduct and other inappropriate conduct, the College District may grant immunity (also known as amnesty) from disciplinary action to a student or employee who acts in good faith in reporting an alleged violation, filing a formal complaint, or participating in a grievance process under this policy. For example, students who report that they were a victim of sexual assault will not face disciplinary charges for other code of conduct violations, such as underage drinking, that occurred in conjunction with the alleged sexual assault. A person who allegedly engaged in sexual misconduct or other inappropriate conduct may not avoid discipline by reporting the person's own acts of sexual misconduct or other inappropriate conduct.

Consolidate Reports

When the allegations underlying two or more reports arise out of the same facts or circumstances, the College District may consolidate the reports.

Bias and Conflict of Interest Prohibited

The College District shall ensure that any individual designated by a recipient as a Title IX coordinator, investigator, decision-maker, or any person facilitating the informal resolution process, does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

Training

A person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator of an informal resolution process shall receive training as required by law and College District procedures.

Extension of Timelines

Timelines established by this policy and associated procedures may be extended by mutual agreement for good cause. The College District shall promptly provide written notice to the parties of an extension and the reason for the extension.

Initial Assessment and Response to the Complaint

Upon receipt of a formal complaint, the College District must evaluate whether the allegations, if proven to be true:

1. Describe sexual misconduct as defined in this policy;
2. Do not describe sexual misconduct but do describe other inappropriate conduct or other violations of College District policy; or
3. Do not describe a violation of College District policy.

The College District will dismiss a formal complaint if the allegations, even if true, do not describe sexual misconduct as defined in this policy, did not occur in a College District program or activity, or did not occur in the United States. The College District official may refer the complaint for possible investigation and discipline under other College District policy or the Student Code of Conduct.

Before dismissing a formal complaint, the Title IX coordinator will evaluate whether it is still possible to grant the relief requested by the complainant if the complaint were sustained. For example, even if the respondent is no longer employed by the College District, the College District may have the authority and ability to restore educational benefits or opportunities.

The College District may dismiss a formal complaint for any of the following reasons:

1. The employee-respondent is no longer employed by the College District;
2. The reporting party requests dismissal in writing;
3. The student-respondent is no longer enrolled at the College District; or
4. Other circumstances exist that prevent the College District from gathering evidence sufficient to reach a determination as to the allegations in the formal complaint.

Upon dismissal of a complaint, the Title IX coordinator shall provide the parties written notice of the dismissal and the reason(s) for it.

The Title IX coordinator will provide written notice to the parties regarding filing of the formal complaint. The notice will contain the following information:

1. A description of the support services and supportive measures available to complainants and respondents;
2. A copy of the applicable College District's sexual misconduct policies and procedures;
3. A statement of the allegations of misconduct with sufficient detail known at the time of the filing of the complaint, including the identity of the parties and the date(s), time(s), and location(s) of the alleged conduct (if known);
4. Identification of the alleged policy violations or code of conduct violations being investigated;

FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION
SEX AND SEXUAL VIOLENCE

FFDA
(LOCAL)

5. A statement that the respondent is presumed not responsible and that a determination regarding responsibility will be made at the conclusion of the grievance process;
6. A statement regarding the parties' right to inspect and review the evidence gathered during the investigation that is directly related to the allegations in the formal complaint; and
7. A statement regarding the prohibition on knowingly making false statements during the grievance process.

The complainant and respondent must be provided notice of their right to an advisor of their choice, who may be, but is not required to be, an attorney. The advisor may accompany a party to any related meeting or grievance proceeding, may inspect and review evidence, and may receive the investigative report. Students must provide the name and contact information of their advisors, if any, to the Title IX coordinator and state whether the advisor is authorized by the student to receive confidential information on behalf of the student.

Supporting Services
and Supportive
Measures for
Complainants and
Respondents

When the College District receives notice of an allegation of conduct that, if true, would meet the definition of sexual misconduct under this policy, the Title IX coordinator shall promptly contact the complainant to:

1. Discuss the availability of supportive measures and inform the complainant that such measures are available without the filing of a formal complaint;
2. Consider the complainant's wishes with respect to supportive measures; and
3. Explain to the complainant the option and process for filing a formal complaint.

Complainants and respondents are both entitled to request supportive measures. Supportive measures are non-disciplinary, non-punitive individualized services offered when appropriate and reasonably available. Supportive measures are designed to restore or preserve access to the individual's education program or activity without unreasonably burdening the other party; protect the safety of all parties and the educational environment; and deter sexual harassment and other sexual misconduct. Supportive measures may include:

- Providing counseling;
- Extending deadlines or other course-related adjustments;
- Modifying work or class schedules;

- Providing campus escort services;
- Implementing mutual restrictions on contact between the parties;
- Changing work or housing locations;
- Allowing leaves of absence;
- Increasing security and monitoring of certain areas of the campus; and
- Implementing other similar measures.

The complainant and respondent are entitled to drop a course in which both parties are enrolled without an academic penalty.

Emergency
Removal or
Administrative
Leave of
Respondent

A student-respondent may be removed from the College District's education program or activity on an emergency basis. The College District must undertake an individualized safety and risk analysis and determine whether an immediate threat to the physical health or safety of any student or another individual arising from the allegations of sexual harassment justifies removal. The respondent must be provided with notice of the removal and an opportunity to challenge the decision immediately following the removal. The administration shall send written notice to the student via hand-delivery or electronic mail and first-class U.S. mail. A student who is notified of an emergency removal is entitled to a hearing at the student's request, which ordinarily will be held within five business days. An emergency removal will take effect immediately even if the affected student requests a hearing. The purpose of the hearing is not to resolve the underlying charge of misconduct but to determine if removal is justified pending a hearing on the underlying charge.

In some circumstances, the College District may determine that removal of an employee-respondent from campus would be appropriate prior to a determination of responsibility. Administrative leave can include a temporary reassignment, restrictions on access to a part of campus, or suspension from campus. Administrative leave must be approved by the College President or designee. The terms and conditions of the leave, including the employee's pay status, shall be in accordance with the employee's contract, if any, and the College District's personnel policies.

The provisions relating to emergency removal and administrative leave may not be construed to modify any rights that a student or employee may have under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act of 1973.

Request Not to Investigate

The complainant may request that the College District not investigate the allegations or may wish to keep the matter completely confidential or to withdraw a formal complaint after it is filed. In such circumstances, the College District must weigh the rights, interests, and safety of all parties and the larger campus community. In weighing a request not to investigate, the College District will evaluate:

1. The seriousness of the alleged conduct;
2. Whether the College District has received other reports of a Title IX incident involving the same respondent(s);
3. Whether there is a risk of harm to others; and
4. Any other evidence that the College District determines to be relevant to the analysis.

The Title IX coordinator shall promptly notify the complainant in writing of the decision regarding whether it will conduct the investigation. If the Title IX coordinator decides not to investigate based on the complainant's request not to investigate, the College District shall take any steps necessary to protect the health and safety of the College District community in relation to the alleged incident.

If the Title IX coordinator determines that an investigation is necessary, the complainant is not required to participate.

Formal Complaints Against the President

A formal complaint against the College President should be submitted to the Board chair. This policy and the College District's grievance process shall apply to the extent practicable; avoidance of any conflict of interest is paramount. The Board chair shall appoint an external investigator, who may be an attorney, to conduct an investigation that complies with 34 C.F.R. 106.45. The Board chair shall appoint an external attorney to conduct any live hearing required by 34 C.F.R. 106.45. Any investigators or hearing officers shall be neutral and impartial and possess the training required by law. Any appeals shall be heard by the Board.

Investigation and Hearing Processes

The College President shall prepare a grievance process that complies with Title IX and its implementing regulations [see FFDA(LEGAL)]. That process shall be known as the "Title IX grievance process." In addition, the College President shall prepare a grievance process to address complaints of other inappropriate conduct that do not fall under the Title IX grievance process.

The College District's grievance processes shall provide for the prompt and equitable resolution of complaints through timely investigations, hearings, and appeals. A grievance ordinarily will be com-

pleted within 150 business days from the filing of the formal complaint, with the investigation phase taking approximately 60 to 90 business days, and the hearing and appeal phase taking approximately 45 to 60 business days. Most cases should be resolved in less than 150 business days, while some cases may take additional time due to extenuating circumstances such as a party's illness, a concurrent law enforcement proceeding, witness unavailability, a public health emergency, or the need to arrange for language assistance or technology or disability-related accommodations. The College District may extend the timeframes for good cause and with written notice to the parties of the delay, the reason for the delay, and the length of the extension of time.

A complainant's sexual predisposition or prior sexual behavior are not relevant in any investigation or hearing format under the College District's grievance processes except where questions and evidence about a complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the alleged conduct charged by the complainant or if the questions or evidence concern specific incidents of the complainant's prior sexual behavior with the respondent and are offered to prove the complainant's consent of the alleged conduct.

The grievance processes shall be posted on the College District's website.

**Title IX Grievance
Process**

The Title IX grievance process shall address and require the following elements:

1. Equitable treatment of complainants and respondents;
2. An objective evaluation of all relevant evidence by unbiased investigators and decision-makers;
3. A presumption that the respondent is not responsible for the alleged violation until a determination is made at the conclusion of the Title IX grievance process;
4. A description of the possible disciplinary sanctions and remedies that may be implemented following a determination of responsibility for the alleged sexual harassment;
5. Procedures and permissible bases for the complainant and respondent to appeal a determination of responsibility or a dismissal of a Title IX formal complaint or any allegations therein;
6. A description of the supportive measures available to the complainant and respondent;

7. A prohibition on using or seeking information protected under a legally recognized privilege (such as the attorney-client privilege) unless the individual holding the privilege has waived the privilege;
8. Compliance with the requirements stated in 34 C.F.R. 106.45(b), including written notice of a formal complaint, consolidation of formal complaints, recordkeeping, investigation procedures, access to evidence gathered during the investigation, and hearing procedures; and
9. Other local procedures reasonably necessary to facilitate a fair and equitable process, including a process for resolving complaints in which the Title IX coordinator is the respondent.

The College District must provide a hearing and the opportunity for both parties to present their case in accordance with 34 C.F.R. 106.45(b). The grievance process shall describe the method for appointing individuals to serve as decision-makers. The decision-maker(s) must:

1. Conduct a fair and equitable hearing;
2. Permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including questions challenging credibility;
3. Permit the party's advisor (but not a party) to conduct cross-examination, which must be conducted directly, orally, and in real time;
4. At the request of either party, provide the live hearing with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions;
5. Permit only relevant cross-examination and other questions to be asked of a party or the witness, and decide prior to the party or witness answering a question if it is relevant; and
6. Not rely on any statement of a party or witness who did not submit to cross-examination at the live hearing in the determination regarding responsibility. The decision-maker(s) cannot draw an inference about determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions. However, this policy does not preclude the hearing board from considering a party's testimony about statements made by the other party that constitute prohibited conduct. For example, if the reporting party alleges that the respondent

made sexually harassing statements, the hearing board may consider the reporting party's testimony about the alleged statements even if the respondent declines to submit to cross-examination.

To the extent needed and reasonable, the parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants to simultaneously see and hear each other.

The College District shall create an audio, audiovisual recording, or transcript of the live hearing and make it available to the parties for inspection and review.

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

The standard of evidence for investigating and adjudicating a complaint is preponderance of the evidence. This standard shall be met if the evidence shows that the allegation is more likely than not to have occurred.

A written determination must be provided to the parties and in accordance with 34 C.F.R. 106.45(b). The College District must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Informal Resolution

If a formal complaint is filed, the College District may offer to the parties a process for the informal resolution. If the parties voluntarily agree in writing to participate in informal resolution of the complaint, the Title IX coordinator shall determine within a reasonably prompt timeframe if informal resolution may be appropriate for the complaint. If the Title IX coordinator determines that informal resolution may be appropriate, then the Title IX coordinator or designee may facilitate that resolution within a reasonably prompt timeframe. If the Title IX coordinator does not determine informal resolution to be appropriate, then the complaint will be subject to the formal resolution process. This informal resolution process is not available in situations where an employee is alleged to have sexually harassed a student.

Concurrent
Criminal, Civil, or
Regulatory
Investigation or
Proceedings

The College District will not, as a matter of course, wait for the outcome of a concurrent criminal or civil justice proceeding to take action on a formal complaint. The College District has an independent duty to respond to formal complaints. At the College District's discretion, and in consultation with the relevant law enforcement or regulatory agency or district attorney's office, the College District may temporarily delay the investigation or grievance hearing so as not to interfere with the criminal justice activities. This determination will be made on a case-by-case basis and will balance the interests of the complainant, the respondent, and the College District. The Title IX coordinator or designee shall inform the complainant and respondent in writing of any anticipated delays due to a concurrent criminal investigation.

**Withdrawal of
Student-Respondent
While Charges are
Pending**

If a student-respondent withdraws or graduates from the College District after a student files a formal complaint, the College District may not end the grievance process or issue a transcript to the respondent until the College District makes a final determination of responsibility. In such instances, the College District shall expedite the College District's disciplinary process as necessary to accommodate both the student-respondent's and student-complainant's interest in a prompt resolution.

If a respondent student withdraws from the College District prior to the final determination, and upon making a determination of responsibility, the College District will also determine whether the respondent will be ineligible to reenroll. If the respondent is ineligible to reenroll for a non-academic or non-financial reason, the College District shall include on the respondent's transcript the notation required under 19 Administrative Code 3.30(b).

**Potential Remedies
and Sanctions**

The Title IX coordinator is responsible for effective implementation of any remedies. Remedies may include, but are not limited to:

1. Changing a policy, procedure, program, or service;
2. Providing an effective escort to ensure that the complainant can move safely between classes and activities;
3. Providing options so the complainant and respondent do not share classes or extracurricular activities;
4. Providing resources regarding comprehensive, holistic victim services including counseling and academic support services, such as tutoring;
5. Providing guidance to the complainant about arranging extra time to complete or retake a class or withdraw from a class without an academic or financial penalty;

6. Reviewing and determining whether to set aside any disciplinary actions previously taken against the complainant;
7. Issuing a no-trespass order to a third party;
8. Providing resources for counseling, training, and learning opportunities to the respondent to eliminate the inappropriate behavior and hostile environment; and
9. Taking other action appropriate to the circumstances as informed by the evidence.

Sanctions may be imposed on any students found to have violated this policy, as described in FM. Sanctions may include, but are not limited to, reprimand, conditional probation, suspension, and expulsion.

Disciplinary actions may be imposed on any employees found to have violated this policy, as described in the DH and DM series. Disciplinary actions may include, but are not limited to:

- Terminating or suspending an employee;
- Not renewing a contract; or
- Reprimanding, reassigning, or demoting an employee.

Appeal

The College President shall ensure the development of a Title IX appeal process that complies with the applicable legal requirements [see FFDA(LEGAL)]. The complainant and respondent have a right to appeal from a determination regarding responsibility or from the College District's dismissal of a formal complaint or any allegation therein, on the following bases:

1. A procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; and
3. The Title IX coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The Title IX coordinator shall notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. The decision-maker(s) on appeal may not be the same decision-maker(s) that reached the determination regarding

responsibility or dismissal, the investigator(s), or the Title IX coordinator. The appeal must be conducted in a fair and equitable manner. Both parties must be given reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. The decision-maker(s) must issue a written decision describing the result and rationale and provide the written decision simultaneously to both parties.

**Complaints Filed
with OCR**

A party shall be informed of the party's right to file a complaint with the U.S. Department of Education Office for Civil Rights (OCR).

**Other Complaints:
Sex Discrimination,
Other Inappropriate
Conduct, or
Retaliation**

This paragraph applies to retaliation complaints, complaints of other inappropriate conduct, and sex discrimination complaints that do not meet the Title IX regulatory definitions of sexual harassment, sexual assault, dating violence, domestic violence, or stalking. Individuals with these concerns should direct their complaint in writing to the Title IX coordinator. A written complaint may be delivered in person or submitted by mail, electronic mail, or via the College District's website. The complaint must contain the complainant's physical or digital signature or otherwise indicate that the complainant is the person filing the complaint. The Title IX coordinator will promptly evaluate whether the allegation, assumed to be true, describes a violation of this policy.

The Title IX coordinator will provide written notice to the parties regarding receipt of complaint alleging retaliation, other inappropriate conduct, or sex discrimination that does not meet the Title IX regulatory definitions of sexual harassment, sexual assault, dating violence, domestic violence, or stalking. An impartial investigator shall conduct the investigation. The investigator shall conduct a thorough investigation in light of the allegations and the availability of witnesses. The investigator shall prepare a written report with findings of fact.

If the respondent is a student, the written investigation report shall be submitted to the vice president of student affairs or designee. If the investigation does not establish a violation of this policy, the vice president of student affairs or designee shall dismiss the complaint. If the vice president of student affairs or designee determines that reasonable grounds establish a violation of this policy, the vice president of student affairs or designee shall take appropriate disciplinary or corrective action to address the conduct, in accordance with College District policy and procedures.

If the respondent is an employee, the written investigation report shall be submitted to the College President or designee, and the respondent's dean, director, or next-level supervisor who was not involved in the underlying dispute. If the investigation does not establish a violation of this policy, the College President or designee

shall dismiss the complaint. If the College President or designee determines that reasonable grounds establish a violation of this policy, the College President or designee shall take appropriate disciplinary or corrective action to address the conduct, in accordance with College District policy and procedures.

If the respondent is a third party, the investigation report shall be submitted to the College President or designee. If the investigation does not establish a violation of this policy, the College President or designee shall dismiss the complaint. If the College President or designee determines that reasonable grounds establish a violation of policy by a third party, the College President or designee shall inform the third party in writing of the sanction. The decision of the College President is final, but nothing in this policy precludes any person from appearing before the Board during the hearing of citizens.

Appeals

All appeals related to other complaints under this policy may be submitted through the applicable grievance policy beginning at the appropriate level. [See DGBA(LOCAL) for employees, FLD(LOCAL) for students, and GB(LOCAL) for community members]

Confidentiality

To the greatest extent possible, consistent with law, the College District shall maintain the confidentiality of records related to reports and complaints under this policy, and respect the privacy of the complainant or the respondent or a person who makes a report or serves as a witness. Limited disclosures may be necessary to conduct a fair and thorough investigation. The College District will share information only as necessary, which may include investigators, witnesses, the complainant, the respondent, parties' advisors, decision-makers, appellate officers, College District attorneys, and others who have a responsibility to ensure compliance with applicable law.

Retaliation

The College District prohibits retaliation against any person for the purpose of interfering with a right or privilege under this policy or with any right or privilege secured by law; the complainant; or a person who, in good faith, makes a report or complaint, serves as a witness, or otherwise participates or refuses to participate in an investigation, proceeding, or hearing under this policy. Retaliation is a decision or action that is materially averse to the reporting party and is of the type that would dissuade a reasonable person from exercising the person's rights to file a complaint or to participate in an investigation. Retaliation does not include:

1. Exercising First Amendment rights; or

2. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding.

This policy prohibits charges against a person for code of conduct violations that do not involve sex discrimination or sexual misconduct but arise out of the same facts or circumstances as a report or complaint of sex discrimination or sexual misconduct when the purpose of the charge is to interfere with any right or privilege secured by this policy or Title IX and its implementing regulations. Students who believe that they have been subjected to retaliation may file a complaint in accordance with this policy. Employees who allege to have experienced retaliation may file a complaint under DIAA(LOCAL).

Examples

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

Failure to Report and False Claims

Investigations of allegations of sexual discrimination, sexual harassment, or sexual misconduct are serious and often time-consuming endeavors. The College District recognizes that the expenditure of time and resources is necessary to ensure the fair and equitable resolution of complaints. Any person, who in bad faith, knowingly makes a false complaint under this policy or provides materially false information is subject to disciplinary action up to and including dismissal or separation. A determination that a respondent is not responsible for allegations of sexual misconduct does not establish the falsity of a report, formal complaint, or evidence. Similarly, a determination that a respondent is responsible for a policy violation does not imply that a respondent's statements disclaiming responsibility were false.

Records Retention

The College District must maintain records of each sexual harassment or sexual misconduct investigation, appeal, informal resolution, and all training materials for Title IX personnel in accordance with the law and for a period of at least seven years. All other records shall be in accordance with the College District's records retention procedures [see CIA].

Access to Policy, Procedures, and Related Materials

Information regarding this policy and any accompanying procedures, as well as relevant educational and resource materials concerning the topics discussed in this policy, shall be distributed to applicants for admission and employment and annually to College District employees, students, and parents or guardians of dual credit students in compliance with law and in a manner calculated to provide easy access and wide distribution, such as through elec-

tronic distribution and inclusion in the employee and student handbooks and other major College District publications. Information regarding the policy, procedures, and related materials and any materials used to train a person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator shall also be prominently published on the College District's website on a dedicated page accessible through a clear link on the homepage, taking into account applicable legal requirements. Copies of the policy and procedures shall be readily available at the College District's administrative offices and shall be distributed to a student who makes a report.

¹ Title IX Coordinator email: <mailto:josmartinez@lee.edu>

² Title IX/Sexual Misconduct webpage: <https://www.lee.edu/titleix/>

³ College District's website portal: <http://www.lee.edu/online-reporting/>