

BARTON COLLEGE

NON-DISCRIMINATION POLICY AND NOTICE OF NONDISCRIMINATION/ TITLE IX POLICY

TP - 8

Policy Title	Non-Discrimination Policy and Notice of Nondiscrimination/Title IX Policy
Approval Authority	Trustee Policy
Effective Date	4/26/2014
Revision History	08/01/2024, 08/14/2020, 08/28/2018, 08/01/2024
Responsible Party	VP for People and Support
Administrative Oversight	VP for People and Support

I. INTRODUCTION

Barton College is committed to equality of educational opportunity and does not discriminate against applicants, students, or employees based upon race, color, national origin, religion, sex, age, veteran status or disability.

Barton College supports the protections available to members of its community under all applicable federal laws, including Titles VI and VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 799A and 845 of the Public Health Service Act; the Equal Pay Act; the Age Discrimination Act of 1975; the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1974; the Vietnam Era Veteran's Readjustment Assistance Act of 1974; the Americans with Disabilities Act of 1992; and Executive order 11246, as amended by Executive Order 11375.

In compliance with Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1972, accommodations of the disabled extend to student programs, employment practices, elimination of physical barriers, and special assistance to disabled students and employees within the college.

This Policy applies to all conduct that occurs after August 1, 2024. For alleged incidents of sex discrimination occurring prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply.

This Policy applies to all members of the College community including students, employees, and third parties including contractors, vendors, visitors, applicants, guests, or others who are participating in or attempting to participate in Barton College education or employment programs or activities. All community members share in the responsibility for creating and maintaining an environment that promotes the safety and dignity of each person. All College community members are required to follow College policies and local, state, and federal law. A student is someone who has gained admission to the College.

This Policy applies to the College's education programs and activities, including locations, events, or circumstances in which the College exercises substantial control over both the Respondent and the context in which the conduct occurred; conduct occurring in a building owned or controlled by a student organization officially recognized by the College; and conduct subject to the College's disciplinary authority. This Policy may also apply even when some conduct alleged to be contributing to the hostile environment occurred outside the recipient's education program or activity or outside the United States. This Policy also applies to online conduct when the Title IX Coordinator determines that the conduct affects a substantial College interest.

This nondiscrimination policy covers admission, readmission, access to, and treatment and employment in college programs and activities, including, but not limited to, academic admissions, financial aid, any services, and employment.

Any student or employee who believes that he or she has been discriminated against by the College because of his or her race, color, national origin, religion, age, sex, or disability should speak with the Director of DEI/Title IX, or a Deputy Title IX Coordinator, and/or the VP for People and Support/Chief Diversity and Title IX Officer.

II. TITLE IX POLICY AND NOTICE OF NON-DISCRIMINATION

Title IX of the Education Amendments of 1972 ("Title IX") is a Federal civil rights law that prohibits discrimination on the basis of sex in education programs and activities. Barton College is committed to providing a safe environment for all of its students and employees free from discrimination on any grounds. Barton does not tolerate acts of sex-based harassment, sexual harassment, interpersonal violence, sexual misconduct, discrimination based on pregnancy or related conditions, and sex and/or gender-based discrimination. All members of the community should conduct themselves, therefore, with integrity, respect and consideration for others. Anyone, including employees of Barton, students, contractors, or visitors who sexually harasses or discriminate against another will be addressed in accordance with this internal policy whether it takes place within Barton's premises or off site, including social events, business trips, training sessions or conferences as well as athletic events on or off-campus.

Inquiries about Title IX may be referred to Barton's Title IX Office, the U.S. Department of Education's Office for Civil Rights (<https://ocrcas.ed.go/contact-ocr>), or both. Barton's Chief Title IX Officer is Victoria Morris, Office 313 Harper Hall, 252-399-6330, vamorris@barton.edu. Barton's non-discrimination policy and grievance procedures can also be located at www.barton.edu/title-ix/.

To report information about conduct that may constitute sex-discrimination or make a complaint of sex-based harassment under Title IX, please:

- 1) Utilize the on-line complaint form located on www.barton.edu/title-ix/, and/or
- 2) Contact:
 - a. Jackie Ennis, Deputy Title IX Coordinator, Office 100A Hardy Building, 252-399-6434, jennis@barton.edu.
 - b. Crystal Jordan, Deputy Title IX Coordinator, Office 319 Harper Hall, 252-399-6356, cjordan@barton.edu.
 - c. Jamie Grodecki, Deputy Title IX Coordinator, Wilson Gym, 252-399-6552, jmgrodecki@barton.edu.

- d. Corey Coley, Director of DEI/Title IX, Office 320 Harper Hall, 252-399-6319, cocoley@barton.edu.
- e. Victoria A. Morris, VP for People and Support/Chief Diversity and Title IX Officer, Office 313 Harper Hall, 252-399-6330, vamorris@barton.edu.

Barton understands the negative impact sex discrimination/sexual misconduct can have on individuals and the Barton community and therefore strives to provide information and training such that it can be eliminated and prevented. To that end, the objectives of this policy are to:

- provide knowledge about the areas covered under Title IX to help our community understand their rights and responsibilities so that those involved in a violation of policy can be assisted.
- help define sexual misconduct and interpersonal violence so that each member of the community can recognize it.
- outline grievance procedures for filing reports when it is suspected that a policy violation has occurred.
- explain the investigative process and possible sanctions and disciplinary measures to be enforced when a violation has occurred.

Barton works to assist all parties involved in any Title IX matter whether they are the complainant or respondent. Supportive measures that can be made available include but are not limited to the following:

- counseling services through Student Health Services
- extensions of deadlines and other course-related adjustments
- police escorts on campus
- increased security and monitoring of certain areas of campus
- restrictions on contact applied to one or more parties
- leaves of absences
- changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative
- training and education programs related to sex-based harassment
- Additional measures for pregnancy or related conditions may include:
 - Breaks during class (including to eat, drink use the restroom, or for lactation purposes),
 - Intermittent absences for medical appointments
 - changing in scheduling of course sequence, extensions of time or rescheduling tests
 - allowing students to sit/stand, access to water, elevators, counseling, access to online or homebound education where possible, changes to physical space or supplies
 - voluntary leave of absence for the time that is deemed medically necessary by the student's licensed healthcare provider and reinstatement upon return to the same academic status, and as practicable, to the same extracurricular status they held when the voluntary leave began.
 - lactation spaces that are clean, shielded from view, free from intrusion from others, which can be used by the student as needed to express breast milk or breastfeed.

NOTE: Individualized measures are offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary

reasons, and without fee or charge to either party to:

- restore or preserve the party's access to the College's education program or activity, including measures that are designed to protect the safety of the parties or the College's educational environment, or
- provide support during the College's grievance procedures or during an informal resolution process.

Remedies which are measures provided, as appropriate to a complainant, or any other person the College identifies as having had their equal access to the College's education program or activity limited or denied by sex discrimination/sex-based harassment/sexual misconduct, may include but are not limited to:

- ensuring a complainant can move safely between classes and while at school or on campus such as providing a police escort;
- making changes to class schedules and extracurricular activities to ensure the complainant and respondent are separated;
- making adjustments to student housing;
- providing services, including medical support and counseling;
- providing academic resources and support;
- reviewing any disciplinary actions taken against the complainant to determine whether there is a casual connection between the sex-based harassment and the misconduct.
- making tuition adjustments; and
- other remedies the College deems appropriate.

The Parties may timely seek modification or reversal of the College's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Title IX Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures.

A. Definitions and Examples of Prohibited Conduct:

Sex-based harassment is a form of sex discrimination that includes sexual harassment based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity or expression. Sex-Based Harassment includes:

- Quid pro quo harassment - An employee, agent, or other person authorized by the College to provide an aid, benefit, or service under the College's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.
- Hostile environment harassment - Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College's education program or activity (i.e. creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - The degree to which the conduct affected the complainant's ability to access the College's education program or activity.

- The type, frequency, and duration of the conduct.
- The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct.
- The location of the conduct and context in which the conduct occurred; and
- Other sex-based harassment in the College's education program or activity; or
- Clery Act Offenses:
 - Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
 - Dating violence meaning violence committed by a person:
 - Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship.
 - The type of relationship; and
 - The frequency of interactions between the people involved in the relationship.
 - Domestic violence meaning felony or misdemeanor crimes committed by a person who:
 - Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim.
 - Is cohabitating, or has cohabitated, with the victim a spouse or intimate partner.
 - Shares a child in common with the victim; or
 - Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
 - Stalking meaning 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.

Sex-based harassment can be physical and psychological in nature. An aggregation of incidents can constitute sex-based harassment even if one of the incidents considered on its own would not be harassing. Sex-based harassment can occur

regardless of the gender of a person being subject to the harassment and the gender of the harasser. It may also occur between people of the same gender. Some examples may include but are not limited to:

- Subjecting or threats of subjecting, an employee or student to unwelcome sexual attention or conduct or intentionally making performance of the employee's job or student's coursework more difficult because of that employee's or student's gender.
- Sexual or discriminatory displays or publications anywhere in Barton's workplace by Barton employees.
- Unwelcome sexual advances, propositions, or sexual comments, such as sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience.
- Preferential treatment or promises of preferential treatment in exchange for submitting to sexual conduct.
 1. Soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward.
 2. Soliciting or attempting to solicit a student to engage in sexual activity for a good grade or other advantage, educational or otherwise.
- Non-Consensual Sexual Intercourse:
 1. Any sexual penetration or intercourse (anal, oral or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force.
 2. "Sexual penetration" includes vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth to genital contact or genital to mouth contact.
- Non-Consensual Sexual Contact:
 1. Any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force.
 2. "Sexual touching" includes any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another individual, or any other bodily contact in a sexual manner (examples include touching, pinching, patting, grabbing, brushing against another person's body or poking another's body)
- Sexual Exploitation involves a situation in which a person takes non-consensual or abusive sexual advantage of another. Examples of sexual exploitation include, but are not limited to:
 1. Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed).
 2. Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).
 3. Unauthorized taking, sharing, or distributing of pictures, videos or other media of a sexual nature.
 4. Prostitution.
 5. Engaging in sexual activity with another person while knowingly infected with

human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection, and further includes administering alcohol or drugs (such as “date rape” drugs) to another person without his or her knowledge or consent.

- Relationship or Intimate Partner Violence (also known as Dating Violence or Domestic Violence) is abusive behavior that is used by an intimate partner to gain or maintain power and control over the other partner. Intimate partner violence can be:
 1. Physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person.
 2. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the reporting party, where the existence of such a relationship is determined based on the length and type of relationship as well as the frequency of interaction between the persons involved in the relationship.
- Stalking:
 1. A course of conduct directed at a specific person on the basis of actual or perceived membership in a protected class that is unwelcome, and would cause a reasonable person to feel fear, OR
 2. Repetitive and menacing conduct, purposely or knowingly causing emotional distress, or pursuing, following, harassing, and/or interfering with the peace and/or the safety of another.
- Pregnancy and/or Related conditions include:
 1. Pregnancy, childbirth, termination of pregnancy, or lactation.
 2. Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation.
 3. Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

The Title IX Office can make reasonable modifications to policies, practices and/or procedures as necessary to prevent sex discrimination and ensure equal access to the College's education program or activity based on the student's individual needs. Leaves of absences may be granted to cover at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider and if eligible for leave under other provisions, longer periods as applicable with reinstatement upon return to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began. The College will not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in a class, program, or activity. An exception applies if a certified level of physical activity or health is required to participate in the class, program, or activity; certification is required of all students; and the information is not used as a basis for discrimination.

B. Statement on Consent, Incapacitation, Confidentiality, and Privacy:

Consent

Consent is explicit, voluntary and clear permission by word, actions, or writings to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways,

it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words, actions or writings that the other individual consented to that specific sexual conduct. Consent is not present when there is coercion, intimidation, threats, physical force, mental or physical incapacitation/impairment, loss of consciousness, silence without affirmation, being asleep, being under the age of consent, any other condition accordingly where permission has not been or was not able to be given explicitly, clearly and voluntarily.

1.) **Incapacitation** is defined as a state where someone cannot make 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, involuntary physical restraint, and/or from the taking of incapacitating drugs.

A person cannot consent if he or she is unable to understand the fact, nature, or extent of the sexual situation, what is happening, or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated or impaired, has violated this policy. It is not an excuse that the individual respondent of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other.

2.) Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. Silence or the absence of resistance alone is not consent.

3.) A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.

4.) A minor below the age of consent according to state law cannot consent to sexual activity. This means that sexual contact by an adult with a person below the age of consent is a crime as well as a violation of this policy, even if the minor appeared to have consented to engage in the act.

Confidentiality and Privacy

Barton College will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses (see retaliation section).

The identity of the complainant is usually revealed to the parties involved during the investigation. Any complainant who wishes to remain anonymous, may need to discuss their report with a confidential source, who by their position are able to

maintain confidentiality; however, if it is desired that an investigation be conducted and action taken, it will be necessary to reveal those involved in the situation to thoroughly investigate the reported incident to its conclusion.

Any person found to have sexually discriminated against and/or sexually harassed another will face disciplinary action, up to and including termination of employment if an employee of the College and up to and including expulsion if a student of the College. Any person who willingly files a false report and/or bears false witness against someone involved in a sexual harassment complaint may also be subject to the same discipline alternatives. All information pertaining to a report of sexual harassment or investigation is maintained in secure files within the Title IX Office.

C. Grievance/Reporting Procedures and Responsibilities:

1.) Procedures:

Barton has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations. These grievance procedures include complaints of sex-based harassment that involve a student party.

Complaints:

The following people have a right to make a complaint of sex-based harassment, requesting that Barton College investigate and make a determination about alleged discrimination under Title IX:

- A “complainant,” which includes:
 - a student or employee of Barton who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - a person other than a student or employee of Barton who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in Barton’s education program or activity at the time of the alleged sex discrimination.
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- Barton’s Title IX Coordinator.

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the above, the following persons have a right to make a complaint:

- Any student or employee of Barton College; or
- Any person other than a student or employee who is participating or

attempting to participate in Barton's education program or activity at the time of the alleged discrimination.

Barton may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

A respondent is someone who is alleged to have violated the recipient's prohibition on sex discrimination.

Barton may refer to parties involved which refers to the complainant and respondent and will treat complainants and respondents equitably

Barton considers all incidents to be serious and strives to promptly investigate all allegations of sex discrimination and sexual misconduct. If an employee or student feels that he or she is being subjected to either, he or she should:

- a. Immediately inform the person(s) that the conduct is unwelcome and needs to stop. Whether the conduct ceases or does not cease, or if the employee or student is unable to or is uncomfortable with addressing the person(s) directly, he or she should proceed to report the conduct outlined below.
- b. Report the incident to the appropriate supervisor, or Title IX Staff.
- c. Provide a written record of the date, time and nature of the incident(s) and the names of any witnesses (This written record is helpful but not required). It is important to report all concerns of sex discrimination, sex-based harassment or inappropriate sexual conduct to the appropriate supervisor, Title IX staff, and/or VP for People and Support/Chief Diversity and Title IX Officer as soon as possible so that an investigation can occur, and appropriate action can follow.
- d. Once a report of potential violation is received by the Title IX Office, the Title IX Coordinator or designee (usually the Director or Deputy Coordinator) will reach out to the potential complainant to review the concerns, to provide information about the process and their rights, to discuss support measures available and to discuss options for proceeding (formal and informal process). This type of meeting usually occurs with the potential respondent as well unless the complainant and/or Title IX Coordinator does not elect to pursue the concern further. The Title IX Office will strive to complete the evaluation of the claim as a Title IX matter as soon as possible up to ten business days of receipt of the potential violation.
- e. Upon initiation of Barton's Title IX formal grievance procedures, Barton will notify the parties of the following:
 1. Barton's Title IX grievance procedures and any informal resolution process.
 2. Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
 3. Retaliation is prohibited; and
 4. The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence. If Barton provides a description of the evidence: The parties are entitled to an equal opportunity to access the relevant and not

otherwise impermissible evidence upon the request of any party.

If, in the course of an investigation, Barton decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that are not included in the notice provided or that are included in a complaint that is not consolidated, Barton will notify the parties of the additional allegations.

Barton may dismiss a complaint of sex discrimination and/or sex-based harassment if:

- Barton is unable to identify the respondent after taking reasonable steps to do so.
- The respondent is not participating in Barton's education program or activity and is not employed by Barton.
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint and Barton determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination or sex-based harassment under Title IX even if proven; or
- Barton determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination or sex-based harassment under Title IX. Before dismissing the complaint, Barton will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, Barton will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then Barton will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

Barton will notify the respective parties that a dismissal may also be appealed (see appeal section).

When a complaint is dismissed, Barton will:

- Offer supportive measures to the complainant as appropriate.
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator or designee to ensure that sex discrimination or sex-based harassment does not continue or recur within Barton's education program or activity.

In lieu of resolving a complaint through the College's formal grievance procedures, the parties may instead elect to participate in an informal resolution process. At any time prior to determining whether sex discrimination or sex-based harassment occurred (except when an employee and student are involved), an informal resolution process is available with the Title IX Coordinator's approval depending on the circumstances of the complaint.

2.) **Responsibilities:**

- a. All Barton employees are considered responsible parties unless their position grants them confidentiality rights and are required to report any potential Title IX violations to the Title IX Coordinator. Additionally,
 - i. When a student or person who has a legal right to act on behalf of the student informs any employee of the student's pregnancy or related conditions, unless the

employee reasonably believes that the Title IX Coordinator has been notified, must promptly provide the person with the Title IX Coordinator's contact information and let the individual know that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the College's education program or activity.

1. Upon notification of the student's pregnancy, the Title IX Coordinator or designee will inform the student of the College's legal obligations and the notice of non-discrimination.
- b. Confidential Employees with state-conferred privileges are not required to report knowledge of sex/gender-based misconduct. They include:
- Campus mental-health counselors
 - Chaplain
 - Physicians and health care providers
 - Those supervised by a confidential employee in the scope of their management of that employee.

Some important information to know about confidential employees:

An employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which a privilege of confidentiality applies. If a confidential employee has other responsibilities and learns of sex discrimination and/or sex-based harassment, confidentiality may not apply in those circumstances.

Confidential employees are required to explain to any person who informs them of conduct that reasonably may constitute sex discrimination under Title IX:

- a. The employee's status as confidential including the circumstances under which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination.
 - b. How to contact Barton's Title IX Coordinator and how to make a complaint of sex discrimination; and
 - c. That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.
- c. All Management who are made aware of a possible Title IX violation must:
- i. Take all reports seriously.
 - ii. Report all incidents to the Title IX Coordinator
 - iii. Take appropriate action to prevent retaliation or prohibited conduct from recurring during and after any investigation or report.
- d. Barton requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an

individual complainant or respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

- e. The Title IX Coordinator is responsible for general oversight of all Title IX Issues including but not limited to the following which may be carried out by designees accordingly:
 - i. Ensuring that both the complainant and the respondent are aware of the seriousness of a report of sex discrimination, sex-based harassment/sexual misconduct.
 - ii. Ensuring the College has jurisdiction over the potential infraction. Jurisdiction exists when the College has control over the responding party and the behavior impacts the College's programs and/or activities, regardless of where it occurs (including buildings owned by organizations sanctioned by the College and locations outside the United States if the behavior would normally be subject to the College's disciplinary process). The College has the obligation to address a sex-based hostile environment under its educational program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the College's education program or activity outside the United States.
 - iii. Explaining Barton's Title IX policy, and investigation procedures to all parties involved including the informal resolution process option.
 - iv. Preparing and issuing a report for confirmation of the details reported to the Coordinator.
 - v. Arranging for and providing oversight for the investigation of the reported events, and informal resolution process, and for the administration of the final sanctions issued, if applicable, to the parties involved.

a.) The Title IX Coordinator or designee will review the information provided for the reported event to determine whether a policy violation may have occurred and warrants a formal investigation. All formal complaints will be investigated. If the complainant and respondent are interested in and agree to an informal resolution process, the Title IX Coordinator will provide oversight for this process to resolution.

b.) It is up to the Title IX Coordinator to determine if an in-house investigation will be conducted or if an outside third party will be contracted to complete the investigation. All reports involving senior management at the vice-president level or above may be handled by an external third party in accordance with Barton's policies and procedures.

c.) If the Title IX Coordinator or designee finds no evidence of a Title IX policy violation, he or she will issue a report to the parties involved, noting the finding as well as any recommendations relevant to the case including if applicable, referral to another grievance process if appropriate.

d.) If both the complainant and the respondent agree in writing to an informal resolution process (which is available except in cases involving an employee and a student), the Title IX Coordinator must also approve the request before it moves to

informal resolution. Consideration will be given to the nature of the complaint, the implications to campus security, and the parties involved (i. e. student and employee involvement) when determining approval. Final outcomes of the informal resolution process will be documented, signed off on by all parties involved including the facilitator and Title IX Coordinator. Final measures agreed to will be enforced by the Office of Student Engagement and the Title IX Office.

e.) If a formal Title IX infraction claim is submitted, the Title IX Coordinator will refer it to the formal resolution process which involves the assignment of one or two investigators who will conduct the fact-finding process, The investigation includes interviews with the involved parties and any identified witnesses. During the investigation, the parties can submit questions they wish the investigators to ask of the involved parties. The investigators will draft an initial report of the facts with all relevant evidence and/or description of the evidence for all parties to review once the interviews with all parties have been completed. Once the review is completed by the parties, the investigators will issue a report to the Title IX Coordinator. The Title IX Coordinator and/or Director of DEI/Title IX will review the report and issue the finding along with sanctions as applicable to the finding in a letter to the parties involved.

- vi. Ensuring the administration of sanctions via the Office of Student Engagement, if assigned.
- vii. Providing instructions for recourse should any of the applied sanctions are breached.
- viii. Providing direction should either party wish to appeal the final finding, sanction or both the finding and the sanction.

D. Interim Actions/Restriction/Emergency Removal

The College may take immediate interim actions as necessary to protect the community from a threat to the health or safety of the community as a whole, to any particular member of the community, or in cases where there may be a risk of a substantial disruption to the normal operations of the College. In all cases, the subject of the interim action will be given an opportunity to be heard by the Title IX Coordinator or designee on the necessity of the restriction within two (2) business days of the issuing of the restrictions. These actions may include, but are not limited to:

- 1.) Interim Suspension:
 - a. A student/organization who is suspended on an interim basis is subject to all of the same restrictions as if they had been suspended as a final sanction.
 - b. Suspended employees may be required to take time off with pay as determined by the Title IX Coordinator. This may require the use of

available paid leave.

2.) Interim Restrictions:

- a. These restrictions may include but are not limited to restricted access to facilities, housing and/or events, no-contact orders with specific individuals, etc. or any other restrictions deemed by the Title IX Coordinator or designee to be necessary to achieve the goals stated above.

NOTE: Barton will not pay for or make any arrangements for housing for any student removed from housing on an interim basis.

- b. Altering any of these restrictions may be predicated on the requirement to engage in a psychological assessment, drug/alcohol testing, interviews, etc. at the discretion of the Title IX Coordinator or designee.

E. Investigations

Barton provides for adequate, reliable, and impartial investigations of complaints. The burden is on the College, not on the parties, to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination and/or sex-based harassment/sexual misconduct occurred.

1. Following receipt of notice of a possible violation of Barton's Title IX policy where a formal investigation is required, the Title IX Coordinator or designee will contact the relevant parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:
 - a. Barton's Title IX grievance procedures and any informal resolution process (this will usually involve a reference to accessing the policy in the student handbook).
 - b. Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex-based harassment, and the date(s) and location(s) of the alleged incident(s).
 - c. Retaliation is prohibited.
 - d. The respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible evidence to a trained, impartial decision-maker.
 - e. The parties may have an advisor of their choice who may be, but is not required to be, an attorney.
 - f. The parties are entitled to equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence (If Barton provides access to an investigative report: The parties are entitled to an equal opportunity to access the relevant and not impermissible evidence upon the request of any party); and

- g. The seriousness of knowingly making false statements or knowingly submitting false information during the grievance procedures.
2. The purpose of the initial meeting with the Title IX Coordinator or designee, and respective parties is to discuss what occurred and to help determine the next steps to be taken which may include a formal report and formal resolution process, a report and pursuit of an informal resolution process, or a referral to an alternative grievance process if applicable.
 3. In all cases, Barton will seek to have cases reach resolution as soon as possible. Generally, it is hoped that a case can be resolved within ninety (90) business days of notice of the allegation, barring exigent circumstances. If exigent circumstances exist, the Title IX Coordinator, or designee will provide notice to the complainant and respondent (if appropriate) of any delays or extensions.
 - a. The College may undertake a short delay (approximately 7-14 days, to allow for evidence collection) when criminal charges on the basis of the same behaviors that initiated the process are being investigated.
 - b. General timeframes expected include up to:
 1. 10 business days for evaluation of a Title IX Case.
 2. 15-45 business days for the investigation period.
 3. 5 business days for review of the investigative report.
 4. 10 business days for incorporation of feedback/additional investigation if needed.
 5. Twenty (20) business days for the consideration of, issuance of findings and appeal process.

All complainants and respondents may designate an advisor of their choice to help provide support during the investigation, interviews, and meetings called by the College. If the complainant or respondent does not have an advisor, the College may appoint one for each party.

- The general role of the advisor: Advisors may accompany their designated party (complainant or respondent) to all called meetings by the College. Advisors may be anyone the parties choose. The advisor may not make a presentation or represent the complainant or respondent during the investigation or during interviews and meetings. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisors. An advisor may consult with their advisee quietly or in writing, or outside the meeting room, during breaks, but may not speak on behalf of the complainant or respondent.

F. Relevancy and Retaliation

- a. Relevant evidence is considered evidence related to the allegations of sex discrimination and/or sex-based harassment/sexual misconduct under investigation as part of the grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged Title IX violation occurred, and evidence is relevant when it may aid a decision maker in determining whether the alleged Title IX violation occurred. The College will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and/or sex-based harassment

to determine whether one of the exceptions listed below applies: will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Barton (via the Title IX Coordinator's Office) obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Barton's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility will:

- Allow the investigator or decision maker to ask such questions during individual meetings with a party or witness.
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator or decisionmaker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each party with an audio or audiovisual recording, or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

The decisionmaker will determine if proposed questions are relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The decisionmaker will give a party an opportunity to clarify or revise a question that the decisionmaker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

The decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not

impermissible. The decisionmaker will not draw an inference about whether sex-based harassment or sex discrimination occurred based solely on a party's or witness's refusal to respond to such questions.

The findings resulting from a formal resolution process are as follows and will be issued in writing to the parties accordingly when a specific finding is determined:

- a. Not Responsible: In this case, a determination has been made that insufficient evidence exists for a finding of responsible for any of the allegations. The case is closed, and a record of the not responsible finding(s) is retained by the College. The complainant has the option to appeal the finding.
- b. Responsible: The investigator determines that sufficient evidence exists for a finding "Responsible" for any of the violations. In this case, the Respondent may appeal the finding, sanction(s), or both the finding and the sanction(s). The Complainant can appeal the sanction(s).

The written notification of the finding will include:

- A description of the alleged sex-based harassment or sex-discrimination;
- Information about the policies and procedures that the College used to evaluate the allegations;
- The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment or sex-discrimination occurred;
- When the decisionmaker finds that sex-based harassment or sex-discrimination occurred, any disciplinary sanctions the College will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the College to the complainant, and, to the extent appropriate, other students identified by the College to be experiencing the effects of the sex-based harassment or sex-discrimination; and
- The College's procedures and permissible bases for the complainant and respondent to appeal.

In an informal resolution process, there is no finding outcome. Rather, the parties identify and agree to steps that will be taken to help the parties move forward from the alleged incident. The formal informal resolution process is conducted with the help of a trained facilitator and all parties must sign off on and agree to the outcomes in this process. Should this process break down at any point, the complainant and/or Title IX Coordinator has the right to request the formal process be pursued according to the established policies/procedures.

H. Sanctions and Disciplinary Measures

Anyone who has been found responsible for a Title IX policy violation or who has agreed via the informal resolution process, may incur any of the following sanctions and/or disciplinary measures. All sanctions may be imposed either singularly or in combination. The purposes of imposing sanctions are twofold: one, to protect the College community from behavior which is detrimental to the community and/or the educational mission of the College by stopping the behavior, preventing its recurrence and remedying the effect on the complainant and the community; and two, to assist in identifying acceptable parameters and

consequences of future behavior. The sanction(s) imposed is/are intended to correspond with the severity or frequency of violations, as well as the respondent's willingness to recommit him/herself to behaviors that fall within the applicable code of conduct of the College and are consistent with the mission and values of Barton College. Other factors that may affect the sanctions are:

The nature, severity of, and circumstances surrounding the violation:

- An individual's disciplinary history
- Previous reports involving similar conduct.
- The need for sanctions/responsive actions to bring an end to the current actions found to be in violation of the applicable code of conduct and to prevent recurrence of those same or similar actions.
- The need to remedy the effects of the actions that were in violation of the applicable code of conduct on the reporting party and the community.

NOTE: The College will not discipline a party, witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination or sex-based harassment occurred; however, making a false statement can be addressed under an additional conduct process as long as there is evidence independent of the determination whether sex discrimination/sex-based harassment occurred.

a. Sanctions for Individual Students:

- i. Expulsion: Dismissal from the College without the ability to apply for re-admittance.

NOTE: Any student expelled for disciplinary reasons must vacate the campus within the period of time noted in the notice of expulsion (typically immediately). The student may not return to campus or College property without prior written permission by the Title IX Coordinator or designee. Failure to comply with this request will constitute criminal trespass.

- ii. Suspension: Denial of enrollment, attendance, and other privileges at the College for a specified period of time. Permission to apply for re-admission upon termination of the period may be granted with or without conditions/restrictions. Students may be required to complete a period of disciplinary probation upon their return to the College.

NOTE: Any student suspended for disciplinary reasons must vacate the campus within the period of time noted in the notice of suspension (typically immediately). The student may not return to campus or College property during the term of the suspension without prior written permission by the Title IX Coordinator or designee. Failure to comply with this request will constitute criminal trespass.

- iii. College Probation: A period of review and observation during which a student is under an official notice that subsequent violations of College rules, regulations, or policies are likely to result in a more severe sanction including suspension or expulsion from the College. While on conduct probation, a student may be considered to be "not in good standing" and may face specific limitations on his

or her behavior and/or College privileges (see Conditions/Restrictions below).

- iv. Conditions/Restrictions: Limitations upon a student's behavior and/or College privileges for a period of time, or an active obligation to complete a specified activity. This sanction may include but is not limited to: restricted access to the campus or parts of campus, required change in academic course section or delivery method, denial of the right to represent the College in any way, denial of housing or parking privileges, required attendance at a workshop, or participation in public service.
- v. Written Warning: An official reprimand that makes the misconduct a matter of record in College files. Any further misconduct could result in further disciplinary action.
- vi. Fines/Restitution: An order may be issued to make restitution or to pay a fine when a student has engaged in conduct that violates the Title IX Policy.
- vii. Withholding Diploma: The College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has a complaint, or investigation pending.
- viii. Revocation of Degree: The College reserves the right to revoke a degree awarded from the College for fraud, misrepresentation, or other violation of College policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- ix. Other sanctions: The College reserves the right to impose other sanctions as necessary to remain consistent with the mission and vision of Barton College. These may include, but are not limited to mandated psychological assessment, research projects, drug/alcohol classes or testing, proof of employment or attendance at classes, etc.
- x. Residence Life Specific Sanctions:
 1. Permanent Housing Removal: Immediate removal from College housing with no ability to return.

NOTE: Any student permanently removed from College housing for disciplinary reasons must vacate the hall within the period of time noted in the notice of removal (typically immediately). The student may not return to any residence hall without prior written permission from the Title IX Coordinator or designee. Failure to comply with this request will constitute criminal trespass. Additionally, anyone removed from housing for disciplinary reasons remains subject to the termination clause of the housing contract, including payment of any fees or penalties.
 2. Temporary Housing Removal: Immediate removal from College housing for a set period of time with an ability to reapply to return to College housing.

NOTE: Any student removed from College housing for disciplinary reasons must vacate the hall within the period of time noted in the notice of removal (typically immediately). The student may not return to any residence hall without prior written permission from the Title IX Coordinator or designee. Failure to comply with this request will constitute criminal trespass. Additionally, anyone removed from housing for disciplinary reasons remains subject to the termination clause of the housing contract, including payment of any fees or penalties.

3. Housing Relocation: Immediate removal from a specific hall within College housing, and reassignment to another hall.

NOTE: Any student removed from any specific hall within College housing for disciplinary reasons must vacate that hall within the period of time noted in the notice of relocation (typically immediately). The student may not return to the residence hall from which they were removed without prior written permission by the Title IX Coordinator or designee. Failure to comply with this request may constitute criminal trespass and will result in more severe disciplinary action.

b. Sanctions for Student Organizations:

The following disciplinary sanctions may be imposed upon student organizations when they have been found responsible for violating the Code of Student Conduct. All sanctions may be imposed either individually or in combination. Disciplinary sanctions are imposed for the purpose of holding student organizations and their membership accountable for their actions and the actions of their guest(s), whether on campus or at any organization sponsored function.

- i. Permanent Revocation of Organizational Registration: "Permanent revocation" of the organization's registration means revocation without the ability to apply for new registration. Any organization whose registration is permanently revoked must cease all organizational activities upon receipt of the notice of permanent revocation. Any member of an organization whose registration has been permanently revoked shall relinquish any appointed or elected office held with that organization's governing body. Balances of all organizational funds granted by the College and/or the Student Government are to be surrendered to the Title IX Coordinator or designee. Office or housing space assigned by the College shall be vacated within five (5) business days (an organization under emergency suspension may be required to vacate space more quickly) from the date the notice of suspension is issued. Space vacated due to revocation may be reassigned to other eligible College organizations.
- ii. Suspension: Suspension means denial of rights and privileges of a registered organization for a specified period of time. Any organization whose registration is suspended or revoked must cease all organizational activities upon receipt of the notice of revocation or suspension. Any member of a suspended organization may not hold an appointed or elected office with that organization's governing body for the duration of the organization's period of suspension. Balances of all organizational funds granted by the

College and/or the Student Government are to be surrendered to the Title IX Coordinator or designee. Office or housing space assigned by the College shall be vacated within five (5) College business days (an organization under emergency suspension may be required to vacate space more quickly) from the date the notice of suspension is issued. Space vacated due to suspension may be reassigned to other eligible College organizations. Leave to reapply for registration as a student organization may be granted with or without qualifications. Office or housing space assigned prior to suspension will not automatically be reassigned. The organization may reapply for a space assignment, subject to availability. Suspended organizations will automatically be placed on probationary status for a minimum of one academic year following their renewed registration.

- iii. Probation: A period of review and observation during which a student organization is under official notice that subsequent violations of College rules, regulations, or policies could result in a more severe sanction including suspension. During the probationary period, a student organization is deemed "not in good standing" with the College and may be subject to one or any combination of the following conditions and/or restrictions:
 1. Denial of the right to represent the College.
 2. Denial of the right to maintain an office or other assigned space on College property.
 3. Denial of the privileges of receiving or retaining funding; participating in intramurals; sponsoring any social event; sponsoring any speaker or guest on campus; participating in any social event or other activity; and engaging in rush or membership recruitment activities.
- iv. Conditions/Restrictions: Limitations upon a student organization's privileges for a period of time or an active obligation to complete a specified activity or activities. This sanction may include, for example, denial of housing or social privileges, etc.
- v. Written Warning: An official written reprimand making the misconduct a matter of record in College files for a specified period of time. Any further misconduct may result in further disciplinary action.
- vi. Restitution/Fines: An organization may be ordered to make restitution or to pay a fine when the organization has engaged in conduct which violates the Title IX policy.

c. Sanctions for Employees:

- Verbal or written warning with a copy placed in their official personnel file.
- Adverse performance evaluation
- Demotion and/or reduction in wages
- Transfer
- Suspension
- Dismissal

I. Appeals

The complainant or respondent may submit an appeal if they meet the appeal guidelines. The following should be noted with regard to appeals:

1.) General information:

- a. All appeals must be in writing to the Title IX Appeal's Officer.
- b. The presumptive stance of the Appeal's Officer is that the initial finding is correct. The burden is on the appellant to show error as outlined below in the Grounds for Appeal.
- c. All sanctions instituted are to be implemented, barring extreme exigent circumstances. Final exams, graduation and/or proximity to the end of a term are not considered exigent circumstances.
- d. Appeals are not intended to be a full re-investigation/review of the allegation(s). In most cases, appeals are confined to a review of the written record of the investigation, finding and sanctions as applicable given the grounds for appeal.
- e. The Appeal's Officer may, at his or her discretion, request information regarding procedure from the investigator or Title IX Coordinator. Ideally, this information would not be necessary, as it should be included in the written Requests and/or response Memorandums.

2.) Grounds for Appeal:

- a. A procedural irregularity that would change the outcome; (e.g. substantiated bias, material deviation from established procedures, etc.).
- b. New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and a summary of this new evidence and its potential impact must be included.

Note: when a party fails to provide a statement under advice of counsel during an investigation, and subsequent to the finding decides to provide a statement, it will not be considered "new evidence." Additionally, subsequent findings of a criminal or civil court (e.g., dismissals, plea bargains, settlements) will not alone constitute sufficient grounds for appeal but may be considered by the Appeal's Officer or designee if new evidence was the grounds for said finding.

- c. The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.
- d. The sanctions are disproportionate to the responsible violation of policy.

3.) Procedure for Appeals

- a. A Request for Appeal must be submitted in writing to the Appeal's Officer within three (3) business days of notification of a case dismissal or the outcome of the formal investigation. All outcomes are assumed received by all parties three business (3) days after sent via mail or email. Any Request for Appeal not filed in a timely fashion will be denied. No exceptions to this timeline are permissible without the express permission of the Appeal's Officer.

- b. The Appeals Officer should not have been involved in the dismissal of the case or the investigation of a case and will review all Requests for Appeal to ensure the request has standing. The Appeals Officer reviewing the Request may consider credibility, plausibility, and weight in their assessment of the Request.
- c. Any Request for Appeal will be shared with all parties who may respond to the Request in a "Response Memorandum." All Response Memorandums must be submitted to the Appeals Officer for consideration within three (3) days of their notification of the Request for Appeal. All Response Memorandums will be shared with all parties.
- d. The Appeal's Officer, after considering all Requests and Response Memorandums, will make one of the following determinations within three (3) business days of receiving the final response Memorandum:
 - i. The Request for Appeal is denied and the original findings are affirmed or the case remains dismissed. This decision is final and there is no appeal to this decision permitted by any party.
 - ii. The Request for Appeal is upheld and is being forwarded to the Title IX Coordinator for placement in the process based on the grounds under which the appeal is granted:

a.) If a procedural error or omission occurred that significantly impacted the outcome of the case, the case will be either:

- i) Remanded back to the Title IX Coordinator to be reinstated if previously dismissed or reassigned to new investigators. This is typically done in cases where the procedural error is so profound as to render the original investigators too biased or influenced. OR,
- ii) Remand the case back to the original investigators with instructions to repair the procedural error.

b.) If it is necessary to consider new evidence, unavailable during the original investigation, but is now available and could substantially impact the original finding or sanction, the case will be either:

- i.) Remanded back to the original investigators with instructions to consider the new evidence, OR,
- ii.) Remanded back to be re-investigated in its entirety by new investigator(s). This is typically done in cases where the new evidence is accompanied by a procedural error so profound as to render the original officer too biased or influenced.

In rare cases, the Appeal's Officer may alter the finding or sanction based on the new evidence.

c.) If it is found that the sanctions are disproportionate to the responsible violation of policy, the case will be:

- i.) Remanded back to the Title IX Coordinator to recommend new sanctions based on the Appeal.

- e. Any decision will be communicated to all parties within three (3) business days, barring exigent circumstances, of the Appeal Officer's decision.

J. Retention of Records Regarding Reports of Sex Discrimination and/or Sex-based harassment/Sexual Misconduct:

All records related to reports of sexual discrimination and/or sexual misconduct, including reports, investigations, findings, and resolutions, shall be maintained in accordance with College records policies. All records pertaining to pending litigation or a request for records shall be maintained in accordance with instruction and/or advice from legal counsel.