

# **BAY de NOC COMMUNITY COLLEGE BOARD OF TRUSTEES POLICIES**

## **1000 GENERAL ADMINISTRATION**

### **1060 NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY**

Bay de Noc Community College Board of Trustees is committed to providing an educational and employment environment free from discrimination and/or harassment on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity, age, disability, or other protected status. Accordingly, discrimination and/or harassment on the basis of race, color, national origin, religion, sex, gender identity, age, disability, or other protected status is prohibited at Bay de Noc Community College.

The prohibition contained within this Policy extends to gender and sex-based discrimination, which by way of example, can include acts of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. This Policy is intended to allow the College to respond promptly and supportively to persons alleged to be victimized by sexual harassment, resolve allegations of sexual harassment promptly and accurately under a predictable, fair grievance process that provides due process protections to alleged victims and alleged perpetrators of sexual harassment, and effectively implement remedies for victims.

The prohibitions contained within this Policy extends to the entire campus community, including but not limited to, the College's administration of its admission, financial aid, employment, and academic policies, as well as college programs and activities. This Policy applies to all employment practices, including recruitment, selection, promotion, transfer, and employee training and development. The College also does not permit any person or entity using its facilities for commercial purposes to engage in unlawful discrimination/harassment. This Policy is intended to be consistent with the provisions of applicable state and federal laws and other college policies. All Board Members, Officers, Employees and Students are responsible for ensuring a work and educational environment free from prohibited discrimination/harassment. Board Members, Officers, Employees and Students have an obligation to report violations of this Policy. Failure to report a violation of this Policy could result in discipline; up to and including termination of employment or expulsion.

The Bay de Noc Community College Board of Trustees also expressly prohibits retaliation against any Board Member, Officer, Employee or Student who alleges that they were the victim of discrimination/harassment; provides information in the course of an investigation into claims of discrimination/harassment; or opposes a discriminatory practice which is prohibited by this Policy. No Board Member, Officer, Employee or Student bringing a complaint, providing information for an investigation, or participating in any proceeding under this Policy shall be subjected to adverse employment or educational consequences based upon such involvement or be the subject of other retaliation.

Questions regarding this Policy may be directed to the Title IX Coordinator identified below.

**PROCEDURE:**

1060.1 Employment Discrimination/Harassment

Any employee who believes that they have been subjected to discrimination/harassment shall promptly report the matter to the Director of Human Resources:

Beth Berube  
Director of Human Resources & Deputy Title IX Coordinator-Employees  
Escanaba Campus  
(906) 217-4036

All requests for accommodations on the basis of a disability shall be handled in accordance with the Procedure outlined in Board Policy 1061. All complaints of discrimination/harassment by employees shall be handled in accordance with the Procedure outlined below.

1060.2 Student Discrimination/Harassment

All complaints of discrimination/harassment shall be made to the Title IX Coordinator or Deputy Coordinators and shall be handled in accordance with the Procedure outlined below.

Title IX Coordinator:

Student and/or Employee Complaints:

Dave Laur  
Director of Student Life  
SC 512  
2001 N. Lincoln Rd.  
Escanaba, MI 49829  
Escanaba Campus – (906) 217-4031

Title IX Deputy Coordinators:

Student Complaints:  
Becky Landenberger  
Registrar  
SC 505  
2001 N. Lincoln Rd.  
Escanaba, MI 49829  
Escanaba Campus  
(906) 217-4266

Employee Complaints:  
Beth Berube  
Director of Human Resources  
SC 523A  
2001 N. Lincoln Rd.  
Escanaba, MI 49829  
Escanaba Campus  
(906) 217-4036

\*\*\* Please note that a complainant is able to file a complaint with any Coordinator.

Students may also report instances of discrimination/harassment in person, mail, email or using the College's electronic filing system which can be found on the Bay College Title IX page: <https://www.baycollege.edu/student-life/health-safety/title-ix.php>.

An incident report may be submitted anonymously. Anonymous reports may limit the response to the discrimination/harassment that the College is able to provide. Please contact the Title IX Coordinator or Deputy Coordinator to discuss questions regarding anonymous reporting.

All requests for accommodations on the basis of a disability shall be handled in accordance with the Procedure outlined in Board Policy 1061. All complaints of discrimination/harassment by students shall be handled in accordance with the Procedure outlined below.

#### 1060.3 Individuals and Conduct Covered

This Policy applies to all applicants, employees, and students and prohibits discrimination, harassment and retaliation, whether engaged in by employees, fellow students or by someone not directly connected to Bay College (e.g., an outside vendor, consultant or customer). This is the procedure for complaints against the College itself, or college employees or agents. This is also the procedure for complaints against fellow students, student organizations and third parties for discrimination/harassment. The procedures outlined within this policy shall be followed regardless of where the alleged discrimination/harassment occurred for the purpose of determining whether any alleged off-campus sexual discrimination/harassment occurred in the context of an education program or activity of the College.

#### 1060.4 Title IX Coordinator and Deputy Coordinators

The College's Title IX Coordinator and Deputy Coordinators oversee the College's investigation, response to, and resolution of all reports of discrimination/harassment. The College's Title IX Coordinator and Deputy Coordinators are:

- Knowledgeable and trained in college policies and procedures and relevant state and federal laws;
- Available to advise any individual, including a student, employee or a third party about college and community resources and reporting options;
- Available to provide assistance to any college employee regarding how to respond appropriately to a report of behavior prohibited in this Policy;

- Participants in ensuring the effective implementation of this Policy, including monitoring compliance with all procedural requirements, record keeping, and timeframes;
- Responsible for overseeing training, prevention, and education efforts and annual reviews of climate and culture; and
- Responsible for the training of staff and faculty, Title IX investigators, Title IX grievance hearing decision makers and appeal officers and for the coordination of Title IX Grievance Process.

Inquiries or concerns about Title IX may be referred to the College's Title IX Coordinator. Concerns about the College's application of Title IX under this Policy may be addressed to the United States Department of Education, Office for Civil Rights.

By email:            ocr@ed.gov  
 By phone:            1-800-421-3481  
 Online:                <https://ocrcas.ed.gov/>  
 By mail:              Office for Civil Rights  
                             U.S. Department of Education  
                             400 Maryland Avenue SW  
                             Washington, D.C. 20202

#### 1060.5 Definition of Sexual Harassment

Sexual harassment is an umbrella category that includes actual or attempted offenses of sexual harassment, sexual assault, dating violence, domestic violence, and stalking, and it defined as follows:

Conduct on the basis of sex or that is sexual that satisfies one or more of the following:

Unwelcome sexual advance(s), request(s) for sexual favor(s), and other verbal, nonverbal, or physical conduct of a sexual nature by an employee, by another student, or by a third party, as well as other unwelcome conduct on the basis of sex.

This includes an employee the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct.

Unwelcome sexual conduct is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies an individual(s) equal access to the College's education program or activity or employment.

Elements of severity, pervasiveness, and objective offensiveness are evaluated in light of the known circumstances and depend on the facts of each situation and are determined from the perspective of a reasonable person in the same situation as the complainant.

Sexual assault, dating violence, domestic violence, and stalking also constitutes sexual harassment and do not require a showing of severity, pervasiveness, or objective offensiveness.

Sexual harassment may be repeated acts or be a single act which is sufficiently severe to have a systemic effect of denying a complainant equal access to an education program or activity.

Sexual Assault is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. This includes the following:

Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim;

Sodomy: Oral or anal sexual intercourse with another person, without their consent;

Sexual Assault with an Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal openings of the body of another person without their consent;

Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without their consent;

Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent. In Michigan the age of consent is 16.

Dating Violence: Violence committed by an individual who is or has been in a social relationship of a romantic or intimate nature with another individual. The existence of such a relationship shall be determined based on the reporting individual's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the individuals involved in the relationship. This includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not cover acts covered under the definition of domestic violence.

Domestic Violence: Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from

that person's acts under the domestic or family violence laws of the laws of the State of Michigan.

**Stalking:** Engaging in a course of conduct directed at a specific individual that would cause a reasonable person to: (a) fear for the individual's safety or the safety of others; or (b) suffer substantial emotional distress. For the purpose of the Stalking definition: Course of Conduct means two or more acts, including acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about an individual, or interferes with an individual's property.

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

**Coercion:** Coercion is unreasonable pressure for sexual activity. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**Consent:** Consent is a voluntary, informed, un-coerced agreement through words or actions freely given, which could be reasonably interpreted as a willingness to participate in mutually agreed upon sexual acts. Consensual sexual activity happens when each partner willingly and affirmatively chooses to participate. Consent to one act does not constitute consent to another act. Consent on a prior occasion does not constitute consent on subsequent occasions. The existence of prior or current relationship does not, in itself, constitute consent. Consent can be withdrawn or modified at any time. Consent is not implicit in an individual's manner or dress. Silence, passivity, or lack of resistance does not necessarily constitute consent.

**Incapacitation:** Incapacitation is a state when an individual's perception or judgement is so impaired that the individual lacks the cognitive capacity to make or act on conscious decisions. The use of drugs or alcohol can cause incapacitation. An individual who is incapacitated is unable to consent to sexual activity. Engaging in sexual activity with an individual who is incapacitated (and therefore unable to consent), where an individual knows or should have reasonably understood that the individual is incapacitated, constitutes Title IX Sexual Harassment as defined in this policy.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

## 1060.6 OTHER DEFINITIONS

**Days:** Defined as business days per Bay College Human Resources Policy 215

**Complainant:** Individual(s) who alleged to be victim of conduct that could constitute sexual harassment while participating in or attempting to participate in the College's educational program or activity at the time of filing a formal complaint.

**Respondent:** Any individual who is reported to be the perpetrator of sexual harassment.

**Non-Sexual Discrimination and harassment:** Discrimination and/or Harassment based upon an individual's protected status includes offensive conduct that is a condition of participation in an educational program or service or employment; as well as unwelcome conduct that is severe or pervasive enough to create an educational or employment environment that a reasonable person would consider intimidating, hostile, or abusive. Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with educational or employment performance. Petty slights, annoyances, and isolated incidents (unless extremely serious) might not violate this Policy.

**Formal Complaint:** Document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment.

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed.

A formal complaint may be filed with the Title IX Coordinator in person, by mail, by electronic mail, or through the College's Online Reporting System.

The phrase "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the recipient) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party.

**Student:** Students are individuals who had been admitted to participate in an educational program or service or who participated in an education program or service during the two years prior to any alleged incident which might be covered by this Policy.

**Supportive Measures:** Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

They are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment.

They may include: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

They will be maintained as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures.

#### 1060.7 Grievance Procedure

Any student, employee or third-party who believes that they have been subject to discrimination and/or harassment, as defined above, or in violation of this Policy or state and federal law, may file a complaint with a Title IX Coordinator or Deputy Coordinator.

A complaint under this Policy may be filed against the College, against an employee of the College, against a student of the College, against a Third-Party, or against a group.

A complaint may be filed against more than one respondent or by more than one complainant against one or more respondents so long as the allegations of sexual harassment arise out of the same facts or circumstances and are so intertwined that the allegations directly relate to all of the parties.

Any complainant who believes that they have been subject to sexual harassment may also file a complaint with local law enforcement.

Upon receipt of a formal complaint, the Title IX Coordinator will then conduct an initial assessment for the sole purpose of determining whether the alleged conduct, if substantiated, would constitute Sexual Harassment under this Policy. Following the initial assessment, the Title IX Coordinator may take any of the following steps:

If the allegations forming the basis of the formal complaint would, if substantiated, constitute Sexual Harassment as defined in this Policy, the Title IX Coordinator shall implement appropriate supportive measures. In addition, the Title IX Coordinator shall initiate an investigation of the allegations. However, if the Title IX Coordinator thinks the formal complaint appropriate for the informal resolution process, upon the consent of both parties, the Title IX Coordinator may instead refer the matter to the informal resolution process.

If the allegations forming the basis of the formal complaint would not, if substantiated, constitute Sexual Harassment as defined in this Policy, the Title IX Coordinator shall dismiss the complaint as a Title IX Complaint. Title IX Coordinator may also refer the allegations for resolution under other Policies.

In addition, at any time prior to the hearing, the College may dismiss a formal complaint if:

The Respondent is no longer enrolled or employed at the College.

Specific circumstances prevent the College from gathering sufficient evidence to reach a determination as to the formal complaint or the allegations therein.

Upon dismissal, the Title IX Coordinator shall promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties via electronic format. Both parties will have equal right to appeal the dismissal.

#### 1060.8 Advisor

Either Party may be assisted during their process by an advisor of their choice. If necessary, the College may provide a party with an advisor without charge. The role of the advisor is narrow in scope: the advisor may attend any interview or meeting connected with the grievance process, but the advisor may not actively participate in interviews and may not serve as a proxy for the party. The advisor may attend the hearing and may conduct cross-examination of the other party and any witnesses at the hearing; otherwise the advisor may not actively participate in the hearing.

#### 1060.9 Emergency Removal

The College may summarily remove an individual from an educational program or activity on an emergency basis, after undertaking an individualized safety/risk assessment, and upon the determination that the individual poses an immediate threat to the physical health or safety of any student or other individual (including themselves, the Respondent, the Complainant or any other individual).

The risk analysis is performed by the Title IX Coordinator in conjunction with the Behavioral Assessment Team.

When an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate.

When the meeting is not requested (in a timely manner), objections to the emergency removal will be deemed waived.

1060.10 Temporary Delays

The general timeframes for resolution outlined in this Policy may be temporarily delayed or extended if the Title IX Coordinator finds that good cause exists for the delay or extension. Written notice of the delay/extension shall be provided to all parties and their advisors.

1060.11 Evidentiary Standard

Responsibility under this Policy will be determined based upon a preponderance of evidence standard which means that the conclusion is based on facts that are more likely true than not.

1060.12 Written Notice of Complaint

The Title IX Coordinator shall send a written notice to each party of the allegations. The written notice will contain the following information:

- (1) A brief explanation of the Grievance Process (Informal and Formal) and a copy of this Policy.
- (2) A statement of the alleged conduct that might constitute sexual harassment with sufficient detail for respondent to prepare response. At a minimum this should include the date, time, location and parties involved in the conduct addressed by the allegations;
- (3) A statement that Respondent is presumed not responsible unless and until a determination of responsibility is reached at the conclusion of the process;
- (4) Notice that each party has the right to an advisor of their choice;
- (5) A statement explaining each parties' right to inspect and review evidence gathered during investigation;
- (6) A statement that false statements are prohibited by College Policy and may result in discipline; and
- (7) A list of potential sanctions upon a finding of responsibility.

A new notice will be sent during the investigation if new allegations are discovered that will be addressed in the Grievance Process,

1060.13 Informal Resolution

At any time prior to a substantive determination regarding the allegations contained in the Formal Complaint, and subject to the consent of the parties

and the approval of the Title IX Coordinator, the College permits informal resolutions processes in cases in which a formal complaint has been filed with the Title IX Coordinator. The Informal Resolution Process is available in matters involving a student Complainant and a student Respondent. The informal process is not available in matters involving a student and an employee.

The informal resolution process is a voluntary, remedies-based process designed to provide parties with an option to resolve disputes with other students in a forum that is separate and distinct from the formal grievance process under the Title IX Sexual Harassment policy. Informal resolution will be led by a trained individual with no conflict of interest.

The College may facilitate the informal resolution process prior to conducting a hearing. Before the informal resolution process is used, both parties must provide voluntary, written consent to the informal resolution process and must receive written notice disclosing: the allegations, the requirements of the informal resolution process and any consequences resulting from participating in the informal resolution process. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

#### 1060.14 Formal Resolution Process

Should the matter not be resolved through Informal Resolution, the Title IX Coordinator shall appoint an Investigator, Hearing Decision Maker and Appeal Officer. The role of each is discussed below.

Respondents shall be presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Formal Resolution Process.

It is the College's burden to establish that the Conduct did occur as alleged and that the conduct, if it occurred, violates College Policy.

The Respondent is not required to prove consent. The Complainant is not required to prove the absence of consent.

Both inculpatory and exculpatory evidence shall be considered by the Investigator, Hearing Decision Maker, and Appeal Officer. Inculpatory evidence is evidence that shows, or tends to show, a person's involvement in an act, or evidence that can establish responsibility. Exculpatory evidence is evidence favorable to exonerates an individual from responsibility.

#### 1060.15 Investigation

The Title IX Coordinator or Deputy Coordinator will assign trained investigator(s) to investigate the complaint.

The investigation shall include interviewing: the complainant, the respondent, and any witnesses identified. Both the complainant and the respondent are entitled to identify witnesses, including expert witnesses, to be interviewed in the investigation.

The investigation will also include reviewing any appropriate documentation and/or policies, reviewing law enforcement investigation documents, if applicable, reviewing student and/or personnel files, and gathering and examining other relevant documents or evidence, and any other action(s) the investigator deems necessary to completing the investigation.

The Complainant and the Respondent have the right to have an advisor present during any interview(s) or other meetings associated with the Grievance Process. The advisor shall not participate in the interview process and must remain silent during this phase of the Grievance Process.

Prior to commencing the investigation, the investigator(s) shall disclose any conflict of interest between them and either party, and in the event of any conflict, a qualified and trained unbiased replacement shall be appointed. A party objecting to the investigator on the basis of a conflict of interest must raise the objection during this phase of the Grievance Process, otherwise, the objection is deemed waived.

Notices of interviews or meetings sent to parties and witness shall include the date, time, location, participants and purpose of the interview or meeting. The notice must be provided sufficiently in advance to allow the party or witness to prepare.

Investigators shall not access, consider, disclose or otherwise use a party's records that are maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in professional capacity and are made/maintained in that capacity without voluntary written consent. Note: Consent for Minor under FERPA is required from Parent.

To complete the investigation, the investigator will make a final determination as to whether each allegation contained within the Formal Complaint occurred, and if they occurred, whether the conduct violates College Policy.

The investigator will document in writing their findings and determination in an Investigation Report. Ten (10) days before the Investigation Report is completed, the Investigator shall provide access to all evidence directly related to the allegations to the Parties and their advisors. Parties may provide a written response to the evidence no later than ten (10) days after being provided access. Within twenty (20) days after parties are provided access to evidence the Investigator shall issue the Investigatory Report which shall:

- (1) Summarize the Investigatory process;
- (2) Summarize the facts gathered during the investigation;

- (3) Summarize any response to the facts provided by a party;
- (4) State the investigators finding of facts;
- (5) State the investigators conclusions

In the event that the College learns of discrimination/harassment in the absence of a direct complaint being filed by the student, such as from a member of the local community, social networking sites, or the media, the College shall investigate or otherwise determine what occurred. If an investigation reveals that sexual violence created a hostile environment, the College will take prompt and effective steps reasonably calculated to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.

#### 1060.16 Hearing

A Hearing will be set for no earlier than ten (10) days from the Complainant and Respondent receiving the finalized investigation report.

Prior to commencing the Hearing process the Decision-Maker shall disclose any conflict of interest between them and either party, and in the event of any conflict, a qualified and trained unbiased replacement shall be appointed. A party objecting to the Decision-Maker on the basis of a conflict of interest must raise the objection during this phase of the Grievance Process, otherwise, the objection is deemed waived.

Upon notice from the Title IX Coordinator that an investigation report has been finalized, the Hearing Decision Maker shall set a hearing date, time, and place for the Hearing. Once a Hearing date, time and place has been determined, the Hearing Decision Maker shall provide written notice of the Hearing date, time and place to all interested Parties. The notice of the Hearing must be provided to all interested parties at least ten (10) business days before the date and time of the scheduled Hearing.

Either party may request that the Hearing be conducted with each party in separation rooms, in which case the Hearing shall be conducted using technology allowing all parties to see and hear each other.

The Grievance Hearing shall be closed to the public in order to protect the confidential nature of the proceedings. Any student or employee requiring accommodations for this Hearing shall make the request for such accommodations to the Director of the Office of Accessibility at least five (5) business days prior to the Hearing. In the event that an essential accommodation cannot be provided by the College by the date of the Hearing, the Hearing shall be rescheduled with the respective date to be no more than one week later. The Hearing Decision Maker will be responsible for ensuring that procedural matters are followed.

Deviations from prescribed procedures will not necessarily invalidate a decision or proceeding unless the deviation causes significant prejudice to a Complainant or Respondent.

No party shall be permitted to make an audio recording of the proceeding. The Hearing shall be transcribed via a Court Report retained by the College. The transcript of the Hearing shall be made available to the parties, their Advisor, the Appeal Officer, and shall be kept by the Title IX Coordinator.

During the Hearing both Advisors for both Complainant and Respondent shall be present but shall not be permitted to participate in the process except for the limited purpose of conducting cross-examination of the other party and witnesses.

The Hearing will proceed in the following order:

1. Hearing Decision Maker's explanation of the Procedure and Rules;
2. Statement of the Investigator's Findings and Conclusion;
3. Complainant's Opening Statement (limited to 15 minutes);
4. Respondent's Opening Statement (limited to 15 minutes);
5. Presentation of the Complainant's witnesses and evidence;
6. Presentation of the Respondent's witnesses and evidence;
7. Complainant's Closing Statement (limited to 15 minutes);
8. Respondent's Closing Statement (limited to 15 minutes).

During the presentation of evidence, each party shall have the opportunity to call witnesses (including experts) on their behalf after which the opposing party through their Advisor shall have the opportunity to question the witness.

During cross-examination parties and Advisors shall conduct themselves in a respectful, non-abusive and non-intimidating manner. Advisors shall not be entitled to object to relevancy issues during the hearing.

In the judgement of the Decision Maker, each party may be granted a short recess for the purpose of conferring with their Advisor.

During the presentation of evidence, the Decision Maker is permitted to ask for clarification from witnesses.

Decision Makers shall make a relevancy determination regarding each question asked during cross-examination before the question is answered and shall explain why it is not relevant.

Upon conclusion of the Hearing, the Decision Maker will make a determination based a preponderance of evidence as to whether the alleged conduct occurred or did not occur, and if the conduct occurred whether the conduct constituted a violation for the Policy. In reviewing the decision of the investigator, the Decision Maker may substitute its assessment for the findings, conclusion, and decision of the investigator.

The Decision Maker shall not rely upon any statement from any party or any witness who does not participate in the Hearing and shall not draw any inference from as to responsibility from such a statement.

The Decision Maker shall provide a written report of their findings and determinations in writing to all parties, their Advisors, and the Title IX Coordinator within ten (10) days after the hearing. The written report shall contain the following information:

1. Identification of allegations potentially constituting sexual harassment;
2. Description of procedural steps (from filing complaint through determination);
3. Findings of fact supporting determination;
4. Conclusion regarding the application of the Policy to the facts;
5. Statement of and rational for results as to each allegation;
6. Statement of and rational for sanction/remedies to be implemented;
7. Statement of whether remedies are designed to restore/preserve equal access to the education program/activity;
8. Appeal Instructions; and
9. Date that the Written Determination becomes final (day appeal decided and if no appeal day after filing appeal).

#### 1060.17 Appeal

An appeal must be filed within 10 (ten) days of the decision being appealed by submitting a written statement as to the basis and reason for the appeal to the Title IX Coordinator.

Appeals may be submitted on the following basis: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence or witness(s) that were not reasonably available at the time determination regarding responsibility or dismissal was made which could affect the outcome of the matter; (3) the existence of an alleged conflict of interest or bias that affected the outcome of the matter.

Within five (5) days of the receipt of an Appeal, the Title IX Coordinator shall provide Notice of the Appeal to all Parties. The Title IX Coordinator shall also appoint an Appeal Officer, who shall not be the investigator or Hearing Decision Maker, to make a determination regarding the appeal based upon the Investigatory Report, the Hearing Report, the written appeal, and the response to the written appeal.

Prior to commencing the Appeal process the Appeal Officer shall disclose any conflict of interest between them and either party, and in the event of any conflict, a qualified and trained unbiased replacement shall be appointed. A party objecting to the Appeal Officer on the basis of a conflict of interest must raise the objection during his phase of the Grievance Process, otherwise, the objection is deemed waived.

The non-appealing party shall have ten (10) days to provide a response to the appeal.

Within ten (10) days of receipt of the response to the appeal the Appeal Officer shall issue a written decision simultaneously to all parties, their advisors and the Title IX Coordinator regarding the Appeal Decision. The written Appeal Decision shall articulate the basis on which the Appeal Decision was reached. Upon issuance of the Appeal Decision the Grievance Process shall be considered concluded and all sanctions imposed, and remedies provided, shall take effective.

#### 1060.18 Reasonable Accommodations

The College will take reasonable steps to ensure that any reporting forms, information, or training about sexual discrimination/harassment will be provided in a manner that is accessible to students and employees with disabilities.

#### 1060.19 English Language Learners

The College will take reasonable steps to ensure that any reporting forms, information, or training about sexual discrimination/harassment will be provided in a manner accessible to students who are English language learners.

#### 1060.20 Potential Sanctions

Sanctions will be imposed upon a finding that a student or employee has violated this Policy. A student or employee who fails to complete the sanction will be considered to have committed another violation of this Policy. Violations involving impairment from the voluntary use of alcohol and/or use of drugs, (other than medically necessary) shall be considered an aggravating, and not a mitigating, factor in sanctioning. All sanctions become part of a student's file or employee's personnel file. The College may withhold awarding a degree, or any other academic achievement, otherwise earned, for a Respondent if the Respondent is found responsible through the

Grievance Procedure. Potential sanctions for students found by the College to have violated this Policy may include, but are not limited to:

**Censure:** Censure is a written notice warning to the Respondent to avoid a recurrence of any conduct that violates College Policy.

**Disciplinary Probation:** Disciplinary probation is a specified period of time, a minimum of one semester, requiring the student to avoid a recurrence of any conduct that violates any College Policy that may result in additional college sanctions including suspension or expulsion.

**Educational Experiences:** Educational experiences are learning opportunities, including but not limited to, community service, drug and alcohol education, and written papers, designated to be completed by the student. In addition, an alcohol and drug assessment and/or behavioral health assessment may be required to be completed by a qualified medical or mental health professional and released to an appropriate college official.

**Loss of Privileges:** Loss of privileges is a denial of services, privileges, and benefits which may impact participation in extracurricular activities, residence in college housing, college employment, leadership within student organizations and academic activities, for a designated period of time.

**Bans, Deactivations and Holds:** Bans, deactivations and holds are restriction of access to college services, activities, facilities and registration.

**Restitution:** Restitution is monetary reimbursement to the College and/or a member of the College community or others to cover the cost of damage, injury, or loss of community or personal property as a result of a violation.

**No Contact:** The Respondent, Complainant, or both are instructed to not have direct or indirect contact with the other party. This includes but is not limited to contact in person, through electronic means, or through a third party.

**Deferred Suspension:** Deferred suspension is a designated period of time during which a student is given the opportunity to demonstrate the ability to abide by the College articulated behavioral expectations.

**Suspension:** Suspension is removal of a student for a defined period of time, for a maximum of six consecutive semesters, during which a student loses all college privileges including, but not limited to, facilities, programs, privileges, classes, and premises. Students who do not attend the College for three or more successive semesters excluding summer sessions must submit an application for readmission to the College.

**Expulsion:** Expulsion is permanent dismissal from the College, administrative withdrawal from classes and loss of all college privileges.

Potential sanctions for employees found by the College to have violated this Policy may include, but are not limited to:

**Corrective Plan of Action:** Based upon the severity of the violation, an employee found to have violated this Policy may be issued a corrective plan of action which directs the employee.

**Training:** Any employee found to have violated this Policy may be required to participate in Sexual Harassment Awareness training, including, but not limited to obtaining education regarding this Policy and the laws prohibiting sexual harassment/discrimination.

**No Contact:** The employee may be directed to have no direct and/or indirect contact with the complainant. This includes but is not limited to contact in person, through electronic means, or through a third party.

**Verbal Warning:** A verbal warning may be issued to the employee directing that the employee not engage in behavior prohibited by this Policy. The verbal warning will be documented and placed in the employee's personnel file.

**Written Warning:** A written warning may be issued to the employee directing that the employee not engage in behavior prohibited by this Policy. The written warning will be placed in the employee's personnel file.

**Suspension:** The employee may be suspended with or without pay for a period of time.

**Discharge:** The employee may be terminated from their employment from the College.

Potential sanctions for third-parties found by the College to have violated this policy may include, but are not limited to:

**Loss of Privileges:** The individual and/or entity represented by the individual, may be denied privileges such as access to the College Campus, participation in college activities.

**Termination of Business Relationship:** Any violation of this Policy by an individual employed with and/or representing a third party may result in the termination of any business relationship between the College and the Third Party.

#### 1060.21 Potential Sources of Support

Potential sources of support for individuals who have been subjected to discrimination/harassment in violation of this Policy include, but are not limited to the following:

**Escanaba Campus:**

Tri-County Safe Harbor 24-hour crisis line (906) 789-1166

Campus Mental Health Counselor, Michael Dupont

(906) 217-4140; dupontmj@excite.com

OSF Medical Group (906) 786-5707

Iron Mountain Campus:  
The Caring House 24-hour crisis line (906) 774-1112  
Mental Health Counselor, Mark Young  
(906) 776-4357, mark@resolvingconcerns.com  
Dickinson County Healthcare System (906) 774-1313

The College does not endorse any single potential source for support.

#### 1060.22 Training

Appropriate notice will be provided to Board Members, Officers, Employees and Students of this Policy and its procedures in publications such as the College Catalog, training materials, and promotion of college-sponsored events, course syllabi and the College's website. The Deputy Title IX Coordinators and the Title IX Coordinator shall annually provide training to students and employees regarding this Policy.

The College shall also ensure that the Title IX Coordinator, Investigators, Grievance and Appeal Decision Makers, and Informal Facilitator receive training regarding the follow:

- (1) Serving impartially;
- (2) Relevance, Questions of Evidence, Privilege and Confidentiality;
- (3) Documenting and Completing Reports;
- (4) College Policy on Sexual Harassment and other Policies and Procedures
- (5) The Grievance Process, including how to conduct investigations, how to conduct hearings, and how to conduct appeals and prepare reports
- (6) Technology used during Grievance Hearings;
- (7) The scope of the College's education programs and activities; and
- (8) Assisting those who have experienced trauma.

The College shall publish all training materials on the website. Training shall occur on an annual basis.

#### 1060.23 Prohibition Against Retaliation

The College prohibits any person from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual made a report or complaint, testified, assisted, or participating or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. Such conduct constitutes retaliation and is strictly prohibited.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex harassment, but arise out of the same facts or circumstances as a report or complaint of sex of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX constitutes retaliation and it strictly prohibited.

Any Board Member, Officers, Employee or Student violating this prohibition will be subject to discipline as described above.

Intentionally making a false report or providing false information, is also considered a violation of this Policy. Anyone making a false report will be subject to discipline; up to and including termination or expulsion.

Complaint of retaliation should be made to the Title IX Coordinator. Complaints of retaliation will be handled in accordance with the grievance process outlined in the Policy.

#### 1060.24 Record Keeping

The College's Title IX Coordinator shall be responsible for maintaining the following records arising under this Policy for a period of seven (7) years, with the exception of records related to cases ending in suspension or expulsion, which will be kept indefinitely:

- (1) Investigation Report (Formal Complaint and Investigative Documents);
- (2) Grievance Hearing Determination;
- (3) Record of Grievance Hearing
- (4) Appeal Results;
- (5) Informal Resolution Results;
- (6) Sanctions imposed
- (7) Remedies Implements to restore/preserve equal access to the College's Programs and Activities;
- (8) Supportive Measures given and not given (including an explanation of why those supportive measures not given was clearly not unreasonable under known circumstances);
- (9) All training materials for Grievance Procedure Participants (Informal Resolution Facilitator, Title IX Coordinator(s), Investigators, Grievance Hearing Decision Makers, Individual handling Appeals, and Advisors); and

- (10) An explanation of why a response to a complaint was not deliberately indifferent and document the steps taken to restore/preserve equal access to the College Programs and Activities.

## 1060 NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY

Policy Origin Date:	09/17/2008	Procedure Origin Date:	09/17/2008
Policy Revision Date(s)	02/18/2015 09/18/2019 10/21/2020	Procedure Revision Dates(s)	05/20/2015 10/29/2015 04/21/2016 01/04/2017 03/13/2018 04/17/2018 09/18/2019 10/21/2020

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