

# **Resolving Complaints against a College Employee, Volunteer or Contractor**

## **1. Overview**

As outlined in the Reporting section of this policy, an individual who wishes to make a report of sexual harassment, sexual violence, stalking, or intimate partner violence is encouraged to make a report directly to the Title IX Coordinator, Deputy Title IX Coordinator, the Dean of Students Office, Public Safety or the Office of Student Conduct. Complaints involving College employees, volunteers or contractors can also be made to the College's AA/EEO Officer. In every instance under this policy, the College, through the coordinated efforts of the Title IX team, will conduct an initial Title IX Assessment. For complaints involving College employees the Title IX team could include the College's AA/EEO Officer.

At the conclusion of the Title IX Assessment, the report will be referred for Informal Resolution or Investigation to determine if there is sufficient information to proceed with Formal Resolution. Informal Resolution is a remedies-based approach that does not involve disciplinary action against a Responding Party. Formal Resolution is a sanctions-based approach that may involve discipline up to and including termination of employment.

Throughout the assessment and resolution processes, all parties will be kept informed of the status of the College's activities.

## **2. Initial Assessment**

Upon receipt of a complaint, the College, through the coordinated efforts of the Title IX team, will conduct an initial Title IX assessment. The first step of the assessment will usually be a preliminary meeting with the Reporting Party and the Title IX Coordinator or a member of the Title IX team. The purpose of the preliminary meeting is to gain a basic understanding of the nature and circumstances of the report; it is not intended to be a full forensic interview. At this meeting, the Reporting Party will be provided with information about resources, procedural options and interim remedies.

This initial review will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made. Thereafter, an investigation may continue depending on a variety of factors, such as the Reporting Party's wish to pursue disciplinary action, the risk posed to any individual or the campus community by not proceeding, and the nature of the allegation.

At the conclusion of the Title IX assessment, the Title IX team will determine the appropriate manner of resolution and, if appropriate, refer the report for further Investigation or Informal Resolution.

The determination as to how to proceed will be communicated to the Reporting Party in writing. Depending on the circumstances and requested resolution, the Responding Party may or may not be notified of the report or resolution. A Responding Party will be notified when the College seeks action that would impact a Responding Party, such as protective measures that restrict his/her movement on campus, the initiation of an investigation or the decision to involve the Responding Party in Informal Resolution.

### **3. Informal Resolution**

Informal resolution is a remedies-based approach designed to eliminate a hostile environment without taking disciplinary action against a Responding Party.

Where the Title IX assessment concludes that informal resolution may be appropriate, the College will take immediate and corrective action through the imposition of individual and community remedies designed to eliminate a hostile environment. Examples of protective remedies are provided in Section IX: Interim Remedies. Other potential remedies include targeted or broad-based educational programming or training, direct confrontation of the Responding Party and/or indirect action by the Title IX Coordinator or the College. Depending on the form of informal resolution used, it may be possible to maintain anonymity.

The College will not compel a Reporting Party to engage in mediation, to directly confront the Responding Party, or to participate in any particular form of informal resolution. Mediation, even if voluntary, may not be used in cases involving sexual violence. The decision to pursue informal resolution will be made when the College has sufficient information about the nature and scope of the conduct, which may occur at any time. Participation in informal resolution is voluntary, and a Reporting Party can request to end informal resolution at any time.

The Title IX Coordinator will maintain records of all reports and conduct referred for informal resolution. Informal resolution will typically be completed within thirty (30) business days of the initial report. The College will keep the Reporting Party informed of the progress of Informal Resolution procedures.

### **4. Investigation**

Following the initial Title IX assessment, the College may initiate a prompt, thorough, and impartial investigation. The Title IX Coordinator, in consultation with the Title IX team, will oversee the investigation.

The investigation is designed to provide a fair and reliable gathering of the facts. All individuals in the investigation, including the Reporting Party, the Responding Party and any third-party witnesses, will be treated with appropriate sensitivity and respect. Consistent with the need for a full assessment of the facts, the investigation will safeguard the privacy of the individuals involved as much as possible.

The College will designate an investigator who has specific training and experience investigating allegations of sexual harassment and sexual misconduct. The investigator may be an employee of the College or an external investigator engaged to assist the College in its fact gathering. The College may use a team of two investigators, which may include the pairing of an external investigator with a College employee. Any investigator chosen to conduct the investigation must be impartial and free of any conflict of interest.

The investigator(s) will coordinate the gathering of information from the Reporting Party, the Responding Party, and any other individuals who may have information relevant to the determination. The investigator(s) will also gather any available physical or medical evidence, including documents, communications between the parties, and other electronic records as appropriate. The investigator(s) may consider prior allegations of, or findings of responsibility

for, similar conduct by the Responding Party. The Reporting Party and Responding Party will have an equal opportunity to be heard, to submit evidence, and to identify witnesses who may have relevant information.

The investigation will usually be completed within twenty (20) business days. Given the availability of witnesses or complexity of the circumstances, this time frame may be extended as necessary to ensure the integrity and completeness of the investigation. The College will keep all parties informed of the progress of the investigation.

At the request of law enforcement, the College may agree to defer its Title IX fact gathering until after the initial stages of a criminal investigation. The College will nevertheless communicate with the Reporting Party regarding Title IX rights, procedural options and the implementation of interim measures to assure safety and well-being. The College will promptly resume its Title IX fact gathering as soon as law enforcement has completed its initial investigation.

Information gathered during the investigation will be used to evaluate the appropriate course of action, provide for the safety of the individual and the campus community, and impose remedies as necessary to address the effects of the conduct cited in the report.

## **5. Formal Resolution**

Upon receipt of a formal complaint of sexual misconduct, the Title IX Coordinator or Title IX Deputy shall consult with the Title IX team and the Office of the Attorney General prior to taking action to investigate or resolve the complaint. The Title IX Coordinator or Deputy shall, within sixty (60) days from the receipt of a formal complaint, conduct and conclude an investigation of the allegations that will include an interview with the Reporting Party, the Responding Party, and witnesses as well as the collection of relevant documents, if any.

## **6. Notice of Decision**

Upon the conclusion of the investigation, the Title IX Coordinator or Deputy shall deliver the final decision to the Reporting Party and the Responding Party setting forth the following: (a) a statement of the facts which occurred; (b) a determination of whether the conduct which occurred violated the College's Policy Against Sexual Misconduct using a preponderance of the evidence standard; and (c) what discipline, if any, will be imposed. Disciplinary action may include, but is not limited to, a letter of reprimand, instructions to draft and send a letter of apology, termination of a contract, demotion, termination of employment, or expulsion from College programs. The decision of the Title IX Coordinator or Deputy shall also advise the Reporting Party and the Responding Party of the right to appeal the decision.

## **7. Rights to Appeal**

The Reporting Party or Responding Party may appeal the decision of the Title IX Coordinator or Deputy by filing a written appeal with the Vice President for Business and Finance (or designee) within ten (10) calendar days of the date of receipt of the written decision. The person taking the appeal shall be called the Appellant. The Title IX Coordinator or Deputy shall be called the Appellee. After receipt of the appeal, an Appeal Panel will be appointed in accordance with the

procedures in the applicable employee handbook.

The Appeal Panel shall, within fifteen (15) days of receipt of the Appeal, conduct a hearing to determine whether (a) the facts alleged occurred; (b) the conduct that occurred constitutes sexual misconduct prohibited by the College's Policy; and (c) the disciplinary action is appropriate. At the hearing, the Appellant and Appellee may be represented by counsel and may present opening and closing statements, call and cross-examine witnesses, and introduce documentary evidence. The Panel members may call and question witnesses, request documents, and exclude non-probative and unduly repetitious testimony. A single verbatim record, such as a recording, shall be made of the hearing. The recording shall be the property of the College. No other recordings shall be made by any person during the hearing. Deliberations will not be recorded. The College will not transcribe recordings. Recordings of hearings which result in employment termination shall be kept indefinitely. All other recordings will be destroyed following the end of the appeal period.

Within fifteen (15) days following the conclusion of the hearing, the Appeal Panel shall submit a written final decision containing (a) a statement of the facts which they have found to have occurred; (b) whether the conduct which occurred constitutes sexual misconduct prohibited by the College's Policy; and c) the disciplinary action, if any, that will be imposed. The final decision will be delivered to the Appellant and the Appellee by either certified mail, return receipt requested, overnight, two-day mail, or hand-delivery with a copy sent by first class mail.

## ADDENDUM

### A. CONTACT LIST OF PERSONS ASSIGNED TO DUTIES, OFFICE, AND POSITIONS

#### **Vice President for Student Affairs/Dean of Students:**

Leonard E. Brown, Jr.  
222 Calvert Hall  
Ext 4208  
240-895-4208

#### **Vice President for Business and Finance:**

Paul A. Pusecker III  
109 Calvert Hall  
Ext 4413  
240-895-4413

#### **Provost and Dean of Faculty:**

Michael Wick  
104 Calvert Hall  
Ext 4389  
240-895-4389

#### **Director of Title IX Compliance and Training/Title IX Coordinator:**

Michael Dunn  
Lucille Clifton House  
Ext 4105  
240-895-4105

#### **Director of Human Resources/Deputy Title IX Coordinator**

Shannon Jarboe  
170 Glendening Hall  
Ext 4309  
240-895-4309

#### **Assistant Director of Human Resources and AA/EEO Officer**

Melvin A. McClintock  
170 Glendening Hall  
Ext 4309  
240-895-4309

To reach the above persons via U.S. Mail, please use the Name, Title, and the College mailing address of St. Mary's College of Maryland, 47645 College Drive, St. Mary's City, Maryland 20686-3001.

### B. EXTERNAL AGENCIES

There are strict time frames in which complaints of sexual misconduct complaints must be filed with external state or federal agencies. To preserve the ability of the external agencies to act on the Reporting Party's behalf and to protect the right to file a private lawsuit, one must adhere to the external agency's time frames and associated procedural guidelines when filing a charge. A person wishing to file a complaint with an outside agency should contact an attorney of their choice or these external agencies directly and promptly to determine the appropriate time frames and procedures for filing a complaint.

**The following external agencies handle sexual misconduct complaints.**

**U.S. Equal Employment Opportunity Commission (EEOC) (main office)**

1801 L Street, N.W.  
Washington, D.C. 20507  
800-669-4000  
202-663-4900

**EEOC (Baltimore district office)**

City Crescent Building  
10 South Howard Street  
3rd Floor  
Baltimore, MD 21201  
410-962-3932

**Maryland Commission on Civil Rights (MCCR) (main office)**

Schaefer Towers  
6 St. Paul Street, Suite 900  
Baltimore, MD 21202  
410-767-8600

**MCCR (Southern Maryland office)**

Joseph P. Carter Center  
23110 Leonard Hall Drive  
Post Office Box 653  
Leonardtown, MD 20650  
301-475-4118

**U.S. Department of Education, Office for Civil Rights (DOE/OCR)**

(Main office) Mary E. Switzer Building  
330 C Street, SW  
Washington, DC 20202  
202-205-5413  
1-800-421-3481

**DOE/OCR (local office)**

Wanamaker Building, Suite 515  
100 Penn Square East  
Philadelphia, PA 19107  
215-656-8541