

Administrative Procedures	
Procedure 235.4A Policy 235	Sex Discrimination Investigation Procedure

Purpose

Lower Columbia College recognizes its responsibility to investigate, resolve, implement supportive and corrective measures, and monitor the educational environment and workplace to promptly and effectively stop, remediate, and prevent discrimination on the basis of sex, as required by Title IX of the Educational Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Violence Against Women Reauthorization Act, and Washington State’s Law Against Discrimination, and their implementing regulations. To this end, College has enacted Policy 235 Non-Discrimination and Anti-Harassment and adopted the following Sex Discrimination Investigation Procedure (the Investigation Procedure) for purposes of receiving and investigating allegations of Sex Discrimination arising within the College’s educational programs and activities and workplace. Any individual found responsible for engaging in Sex Discrimination in violation of College policy may be subject to disciplinary action up to and including dismissal from the College’s educational programs and activities and/or termination of employment.

Application of this Investigation Procedure is restricted to allegations of Sex Discrimination, which includes, but is not limited to, allegations of Sex-based Harassment, as those terms are defined within this procedure. Nothing in this procedure limits or otherwise restricts the College’s ability to investigate alleged misconduct and pursue discipline based on violations of other federal, state, and local laws, their implementing regulations, and other College policies prohibiting gender discrimination through processes set forth in the College’s code of student conduct, employment contracts, employee handbooks, and collective bargaining agreements.

Definitions

For purposes of this Investigation Procedure, the following definitions apply:

- A. **“Complaint”** means a written or oral request that can be objectively understood as a request for the College to investigate and make a determination about alleged Sex Discrimination.
- B. **“Complainant”** means the following individuals who have been subjected to alleged conduct that would constitute Sex Discrimination:
 - 1 A student or employee; or
 - 2 A person other than a student or employee who was participating or attempting to participate in the College’s educational program or activity at the time of the alleged discrimination.

- C. **“Confidential Employee”** means a College employee whose communications are privileged and confidential under Federal or State law. An employee’s status as a Confidential Employee only applies when they are functioning within the scope of duties to which the privilege or confidentiality applies.
- D. **“Consent”** means knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each Party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when they know, or reasonably should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual sexual conduct.

Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

- E. **“Disciplinary Sanction”** means consequences imposed on a Respondent following a determination that the Respondent violated the College’s policy prohibiting Sex Discrimination.
- F. **“Investigation Procedure”** is the process the College uses to initiate, informally resolve, and/or investigate allegations that an individual has violated College policies prohibiting Sex Discrimination or Sex-based Harassment.
- G. **“Mandatory Reporters”** are all college employees, excluding Confidential Employees. Mandatory Reporters are required to report conduct that could reasonably constitute Sex Discrimination to the Title IX Coordinator.
- H. **“Peer Retaliation”** means Retaliation by a student against another student.
- I. **“Pregnancy or Related Conditions”** means:
 - 1 Pregnancy, childbirth, termination of pregnancy, or lactation;
 - 2 Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
 - 3 Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
- J. **“Program or Program and Activity”** means all operations of the College.
- K. **“Relevant”** means related to the allegations of sex discrimination under investigation. Questions are Relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is Relevant when it may aid a

decision maker in determining whether the alleged sex discrimination occurred.

- L. **“Remedies”** means measures provided to a Complainant or other person whose equal access to the College’s educational Programs or Activities has been limited or denied by Sex Discrimination. These measures are intended to restore or preserve that person’s access to educational Programs and Activities after a determination that Sex Discrimination has occurred.
- M. **“Respondent”** means an individual who has been alleged to have violated the College’s policy prohibiting Sex Discrimination.
- N. **“Retaliation”** means intimidation, threats, coercion, or discrimination against any person by the College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under the College’s education program or activity, for the purpose of interfering with any right or privilege secured by College policies and procedures prohibiting Sex Discrimination, or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part, including in an informal resolution process, in these investigation procedures, and any disciplinary proceeding for Sex Discrimination. Nothing in this definition precludes the College from requiring an employee to provide aid, benefit, or service under the College’s education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing.
- O. **“Sex Discrimination,”** which includes Sex-based Harassment, occurs when a Respondent causes more than *de minimis* (insignificant) harm to an individual by treating them differently from an otherwise similarly situated individual based on:
 - 1 sex stereotypes;
 - 2 sex characteristics;
 - 3 pregnancy or related conditions;
 - 4 sexual orientation; and
 - 5 gender identity.

Except as permitted by 20 U.S.C. 1681(a)(1) through (9) and the corresponding regulations §§ 106.12 through 106.15, 20 U.S.C. 1686 and its corresponding regulation § 106.32(b)(1), or § 106.41(b), preventing a person from participating in an education program or activity consistent with their gender identity constitutes more than *de minimis* harm and is prohibited.

- P. **“Sex-based Harassment.”** For purposes of this Procedure, Sex-based Harassment is a type of Sex Discrimination that occurs when a Respondent engages in the following discriminatory conduct on the basis of sex:
 - 1 **Quid pro quo harassment.** An employee 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.
 - 2 **Hostile environment.** 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 recipient'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:

- a. The degree to which the conduct affected the Complainant's ability to access the College's education program or activity;
- b. The type, frequency, and duration of the conduct;
- c. The Parties' ages, roles within the College's education program or activity, previous interactions, and other factors about each Party that may be relevant to evaluating the effects of the conduct;
- d. The location of the conduct and the context in which the conduct occurred; and
- e. Other Sex-based Harassment in the recipient's education program or activity.

3 **Sexual Violence.** Sexual Violence includes the following conduct:

- a. **Nonconsensual sexual intercourse.** Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without Consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.
- b. **Nonconsensual sexual contact (Fondling).** Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without Consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.
- c. **Incest.** Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren, and adopted children under the age of eighteen (18).
- d. **Statutory rape (Rape of a child).** Non-forcible sexual intercourse with a person who is under the statutory age of consent as defined in RCW 9A.44.073-079.
- e. **Domestic violence.** Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, coercive control, damage or destruction of personal property, stalking, or any other conduct prohibited under RCW 10.99.020, committed 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, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Washington, 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 State of Washington.

- f. **Dating violence.** Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person (i) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (ii) where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i. The length of the relationship;
 - ii. The type of relationship; and
 - iii. The frequency of interaction between the persons involved in the relationship.
 - 4 **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for their safety or the safety of others; or (ii) suffer substantial emotional distress.
- Q. **“Summary Suspension”** means an emergency suspension of a student Respondent pending investigation and resolution of disciplinary proceedings pursuant to the procedure and standards set forth in WAC 132M-126-100.
- R. **“Supportive Measures”** means reasonably available, individualized and appropriate, non-punitive and non-disciplinary measures offered by the College to the Complainant or Respondent without unreasonably burdening either Party, and without fee or charge for purposes of:
- 1 Restoring or preserving that Party’s access to the College’s educational Program or Activity, including measures that are designed to protect the safety of the parties or the College’s educational environment; or
 - 2 Providing support during the College’s Investigation and Disciplinary Procedures, or during any informal resolution process.
 - 3 Supportive Measures may include, but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of campus; restriction on contact applied to one or more Parties; leave of absence; change in class, college employment, college housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to Sex-based Harassment.
- S. **“Sex Discrimination”** means discrimination on the basis of sex including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, as well as Sex-based Harassment.
- T. **“Title IX Personnel”** are the Title IX Coordinator, Deputy Coordinator, and designees; Investigators; Student Conduct Officers; Employee Disciplinary Officers; and Decision Makers at both the hearing and appeal level, responsible for administering the College’s Sex Discrimination investigation and disciplinary procedures; facilitators of the Informal Sex Discrimination Resolution Process; and any other employees who are responsible for implementing the College’s Sex Discrimination investigation or Sex Discrimination disciplinary procedures for students or employees or have the

authority to modify or terminate Supportive Measures.

- U. **“Title IX Coordinator”** is responsible for processing Title IX Complaints and conducting or overseeing formal investigations and informal resolution processes under this Investigation Procedure.

Training Requirements

For purposes of this Investigation Procedure, the following definitions apply:

- A. **All Employees** – All employees shall undergo training on the following topics:
 - 1 The definition and scope of Sex Discrimination and Sex-based Harassment under these procedures;
 - 2 The College’s obligation to address Sex Discrimination in its education programs and activities;
 - 3 Employee responsibility, upon learning of a student’s pregnancy or related condition, to provide the student with the Title IX Coordinator’s contact information and information about available assistance;
 - 4 Employee obligations to notify the Title IX Coordinator about conduct that may reasonably be Sex Discrimination.

- B. **Title IX Personnel** – In addition to the required training for all employees, Title IX Personnel shall undergo training on the following topics:
 - 1 The College’s grievance procedures for Sex Discrimination and Sex-based Harassment involving a student;
 - 2 How to conduct an investigation;
 - 3 How to serve impartially without prejudgment of facts, conflicts of interest, or bias;
 - 4 Use of technology during an investigation or hearing;
 - 5 The definition of Relevance as used for purposes of evaluating evidence and questions for purposes of this investigation procedure;
 - 6 Effective report writing; and
 - 7 Informal resolution facilitators: procedures for the College’s informal resolution process.

- C. **Title IX Coordinator and Designees**
In addition to the required training for all employees and for Title IX Personnel, the Title IX Coordinator and any designees shall undergo training on the following topics:
 - 1 How to ensure the College’s compliance with its Title IX obligations;
 - 2 How to offer and coordinate supportive measures;
 - 3 Specific actions to prevent discrimination and ensure equal access upon learning of a student’s pregnancy or related conditions;
 - 4 The College’s recordkeeping system and requirements.

- D. All Sex Discrimination training materials will be made available for review upon request.

Title IX Coordinator Investigation Duties

During an investigation, the Title IX Coordinator or a delegate is responsible for the following:

- A. Accepting, evaluating, and processing all Sex Discrimination and Sex-based Harassment Complaints, reports or referrals.
- B. Conducting an intake meeting with the Complainant and, at that time, notifying the Complainant, or the individual who reported the conduct if the complainant is unknown, of the College's Sex Discrimination investigation and disciplinary procedures, as well as the informal resolution process if appropriate and available. After providing this information, the Title IX Coordinator will ascertain whether the Complainant would like the College to proceed with an investigation of the Sex Discrimination Complaint.
- C. Initiating a Complaint subject to the procedure and factors set forth in Section F of this procedure.
- D. When a Party is a student employee and the allegations involve Sex-based Harassment, making a fact-specific inquiry into whether the Party's primary relationship with the College is to receive an education and whether alleged Sex-based Harassment occurred while the Party was performing employment-related work and, and based on this inquiry, determine whether the Party should be treated as a student or an employee under this investigation procedure and related disciplinary procedures.
- E. Addressing and resolving, if possible, questions regarding confidentiality raised by Parties and witnesses.
- F. Determining whether a Complaint should be dismissed during the investigation phase, and if so, notifying the Complainant or the Parties (if Respondent has been notified of the Complaint) of the reasons for the dismissal, and providing the Complainant or Parties with information about the procedure for filing an appeal of the dismissal.
- G. Maintaining accurate records of all Complaints, reports, and referrals.
- H. Retaining investigation files, Complaints, reports, and referrals in compliance with applicable records retention periods or federal or state law, whichever is longer.
- I. Either conducting an impartial investigation of a Complaint or assigning the investigation to an impartial investigator and overseeing the investigation.
- J. Engaging in an interactive process with both Parties to identify and provide Supportive Measures that ensure during the investigation and disciplinary processes that the Parties have equitable access to education programs and activities and are protected from further discrimination or retaliation and making revisions to Supportive Measures as circumstances may require.

- K. Upon completion of an investigation, issuing or overseeing the issuance of a final investigation report to the parties and to the appropriate disciplinary authority in compliance with this Investigation Procedure.
- L. Recommending non-disciplinary corrective measures to stop, remediate, and/or prevent recurrence of discriminatory conduct to College disciplinary authorities and administrators.

Reporting Sex Discrimination

Any person may report possible Sex Discrimination in violation of College policies to the Title IX Coordinator identified below.

Filing a Complaint

For complaints alleging sex discrimination, including complaints of sex-based harassment, the following persons have the right to make a complaint:

- **Complainant** means the following individuals who are alleged to have been subjected to conduct that would constitute sex discrimination:
 - A student or employee; or
 - A person other than a student or employee who was participating or attempting to participate in the college's education program or activity at the time of the alleged discrimination; or
- **Title IX Coordinator.**

For complaints alleging sex discrimination other than sex-based harassment, a complainant or Title IX coordinator may file a complaint. Additionally, the following persons may file such a complaint:

- Any student or employee; or
- Any person other than a student or employee who was participating or attempting to participate in the college's education program or activity at the time of the alleged discrimination.

A Complaint can be in writing or oral. If the Complaint is against the Title IX Coordinator, the Complainant should report the matter to the President's office for referral to an alternate designee.

TITLE IX/EEO COORDINATOR

Name: Vice President of Foundation, HR, & Legal Affairs

Title: Title IX / EEO Coordinator

Office: Administration Building 115

1600 Maple Street, Longview, WA 98632

Phone: 360-442-2121

e-mail: title9@lowercolumbia.edu

TTY/Relay Service: 7-1-1 or (800) 833-6388

TITLE IX/EEO DEPUTY COORDINATOR

Name: Vice President of Student Services

Title: Title IX / EEO Coordinator
Office: Admissions Center 159
1600 Maple Street, Longview, WA 98632
Phone: 360-442-2300
e-mail: title9@lowercolumbia.edu
TTY/Relay Service: 7-1-1 or (800) 833-6388

Title IX Coordinator Initiated Complaint

- A. In the absence or withdrawal of any or all allegations in a Complaint, the Title IX Coordinator may file a Complaint based on their evaluation of the following factors:
- 1 A Complainant's request not to proceed with initiation of a Complaint;
 - 2 A Complainant's reasonable safety concerns regarding initiation of a Complaint;
 - 3 The risk additional acts of Sex Discrimination would occur if the Complaint is not initiated;
 - 4 The severity of the alleged Sex Discrimination, including whether the discrimination if established, would require the removal of the Respondent from campus or imposition of other disciplinary sanction(s) to end the discrimination and prevent its recurrence;
 - 5 The age and relationship of the parties, including whether the Respondent is a College employee;
 - 6 The scope of the alleged Sex Discrimination, including information suggesting a pattern, on-going Sex Discrimination, or Sex Discrimination alleged to have impacted multiple individuals;
 - 7 The availability of evidence to assist a Decisionmaker with determining whether Sex Discrimination occurred; and
 - 8 Whether the College could end the alleged Sex Discrimination and prevent its recurrence without initiating an investigation and disciplinary procedure.
- B. If, upon evaluating these and any other Relevant factors, the Title IX Coordinator determines that the alleged conduct poses an imminent threat to the health or safety of the Complainant or to other members of the College community or that the alleged conduct prevents the College from ensuring equal access on the basis of sex to its educational programs and activities, then the Title IX Coordinator may initiate a Complaint.
- C. When initiating a Complaint, the Title IX Coordinator will provide the Complainant with advance notice of this decision and an opportunity to appropriately address reasonable concerns about the Complainant's safety or the safety of others, including the provision of Supportive Measures.
- D. Regardless of whether a Complaint is initiated under this section, the Title IX Coordinator must take other prompt and effective steps, in addition to those steps necessary to implement remedies for the individual Complainant, to ensure that Sex Discrimination does not continue or recur within the College's educational Programs and Activities.

- E. The analysis set forth above need not be performed if the Title IX Coordinator reasonably determines that the alleged conduct could not constitute Sex Discrimination.

Principles of Investigation Applicable to Sex Discrimination Complaints

The College shall provide an adequate, reliable, and impartial investigation of Complaints of Sex Discrimination by:

- 1 Treating Complainants and Respondents equitably.
- 2 Presuming that the Respondent is not responsible for the alleged misconduct unless or until a determination of responsibility is reached after completion of the investigation and disciplinary processes.
- 3 Having the investigation conducted by a neutral and unbiased investigator without a conflict of interest or bias for or against Complainants or Respondents generally, or an individual Complainant or Respondent.
- 4 Having the investigator make findings of fact based on the preponderance of the evidence standard. A preponderance of the evidence means on a more probable than not basis.
- 5 Placing the burden on the College—not on the Parties—to conduct an investigation that gathers sufficient evidence to determine whether Sex Discrimination occurred.
- 6 Objectively evaluating all evidence that is Relevant and not otherwise impermissible under Section J (e) and (f) of this procedure—including both inculpatory and exculpatory evidence—and provide credibility determinations that are not based solely on a person’s status as a Complainant, Respondent, or witness.
- 7 Providing an equal opportunity for Parties to present fact witnesses and other inculpatory or exculpatory evidence that is Relevant and not otherwise impermissible.
- 8 Providing ten (10) calendar days for each Party to review and submit written comments on the draft investigation report and, upon request, to review Relevant and not otherwise impermissible evidence gathered by the investigator before finalizing the investigation report; and
- 9 Taking reasonable steps to prevent and address the Parties’ unauthorized disclosure of information and evidence obtained solely through the investigation procedure. Such steps shall not prevent the Parties from using the information or evidence for related disciplinary proceedings or litigation related to the Complaint of Sex Discrimination.

Confidentiality

- A. The College will seek to protect the privacy of the Complainant to the fullest extent possible, consistent with the legal obligation to investigate, offer appropriate Supportive Measures and/or take disciplinary action, and comply with the federal and state law, as well as College policies and procedures. Although the College will attempt to honor Complainant requests for confidentiality, it cannot guarantee

complete confidentiality. Determinations regarding how to handle requests for confidentiality will be made by the Title IX Coordinator.

- B. The College has designated the following positions as Confidential Employees:

Mental Health Counselor
Lower Columbia College
(360) 442-2342
counseling@lowercolumbia.edu

Confidential Employees, when acting in their confidential capacity, will maintain confidentiality of information shared by a Complainant and are not required to report conduct that may reasonably constitute Sex Discrimination to the Title IX Coordinator. When a Confidential Employee learns of conduct that reasonably may constitute Sex Discrimination, the Confidential Employee must explain (1) their status as a confidential employee, including the circumstances under which they are not required to notify the Title IX Coordinator about the possible Sex Discrimination, (2) how the Complainant can contact the Title IX Coordinator to make a Complaint about the possible Sex Discrimination, and (3) that the Title IX Coordinator may offer and coordinate Supportive Measures, as well as initiate an Informal Resolution Process or Investigation pursuant to these Investigation procedures.

- C. The Title IX Coordinator will inform the Complainant about the College's Sex Discrimination investigation and disciplinary processes and attempt to obtain consent from the Complainant before commencing an investigation of alleged Sex-based Harassment. If a Complainant asks that their name not be revealed to the Respondent or that the College not investigate the allegation, the Title IX Coordinator will inform the Complainant that maintaining confidentiality may limit the College's ability to fully respond to the allegations and that retaliation by the Respondent and/or others is prohibited. If the Complainant still insists that their name not be disclosed or that the College not investigate, the Title IX Coordinator will determine whether the College can honor the request and at the same time maintain a safe and nondiscriminatory environment for all members of the College community, including the Complainant.'
- D. If the College is unable to honor a Complainant's request for confidentiality, the Title IX Coordinator will notify the Complainant of the decision and disclose the Complainant's identity only to the extent reasonably necessary to effectively conduct and complete the investigation in compliance with this Investigation Procedure.
- E. If the College decides not to conduct an investigation or take disciplinary action because of a request for confidentiality, the Title IX Coordinator will evaluate whether other measures are available to address the circumstances giving rise to the Complaint and prevent their recurrence, and implement such measures if reasonably feasible.

Notice of Investigation and other Notice Requirements

The **Notice of Investigation**. Upon receiving a Complaint of Sex Discrimination, the Title IX Coordinator will initiate the investigation by serving the Respondent and the Complainant with a Notice of Investigation in advance of their initial interviews. This Notice will be served sufficiently in advance to allow the Parties adequate time to prepare for their initial interviews.

If a Complaint includes allegations of Sex-based Harassment and the College has reasonable concerns for the safety of any person as a result of providing a Notice of Investigation, service of the Notice may be reasonably delayed in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

A. The Notice of Investigation must:

- 1 Include a description of the College's Sex Discrimination Investigation and Disciplinary Procedures, including descriptions of procedures applicable to Sex-based Harassment and Informal Resolution processes, if applicable.
- 2 Sufficient information for the Parties to respond to the allegations, including the identities of the Parties, a description of the alleged discriminatory conduct, and the time and location of the alleged incident, to the extent this information is available to the College.
- 3 A statement that retaliation is prohibited.
- 4 Inform the Parties that they are entitled to have an Advisor of their choice and at their own expense, available during the investigation and any disciplinary proceedings and that the Advisor may be, but is not required to be an attorney, and that during the investigation, the Advisor's role will be limited to attending meetings or interviews with the Party and providing advice to the Party.
- 5 A statement that the Parties are entitled to an equal opportunity to access a description of the Relevant, not otherwise impermissible evidence and that both parties shall have an equal opportunity to review such evidence upon request.

B. In cases involving allegations of **Sex-based Harassment**, the Notice of Investigation shall also inform the Parties that:

- 1 The Respondent is presumed not responsible for the alleged Sex-based Harassment until a determination is made at the conclusion of the applicable disciplinary procedure and prior to such a determination, the Parties will have the opportunity to present Relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker.
- 2 A statement that the Parties are entitled to an equal opportunity to access the investigative report describing the Relevant, not otherwise impermissible evidence, and that both Parties shall have an equal opportunity to review this evidence upon request.
- 3 Notice that the College's employment policies and student conduct code prohibit employees and students from knowingly making false statements or knowingly submitting false information during an investigation or disciplinary proceeding.

Amended Notice of Investigation. If during the course of the investigation, the College decides to investigate Sex Discrimination allegations against a Party that are not included in the original Investigation Notice, the College will issue an amended Notice of Investigation to both Parties that includes this additional information and complies with the applicable notice requirements set forth above.

Notice of Meetings and Interview. In cases involving allegations of Sex-based Harassment, the College shall provide written notice to Parties whose participation is invited or expected of the date, time, location, participants, and purposes of all meeting or proceedings with sufficient time for the Party to prepare to participate.

Investigation Process

During the investigation, the investigator:

- A. Will provide the parties with equal opportunity to present Relevant statements, and other evidence in the form of fact or expert witnesses and inculpatory or exculpatory evidence.
- B. Will not restrict the ability of either Party to discuss the allegations under investigation or gather and present Relevant evidence, except when a no contact order has been imposed based on an individualized and fact specific determination that a Party poses a threat to the health, safety, or welfare of another Party and/or witnesses or when contact with a Party and/or witness is prohibited by court order. A College-imposed no contact order shall be no broader than is necessary to protect the threatened Party or witness and must provide the Party or their advisor with alternative means of gathering and presenting Relevant evidence from the protected witness or Party.
- C. Will allow each Party to be accompanied by an Advisor of their choosing, who may be an attorney, to any investigation related meeting or interview. Advisors' roles during the investigation meetings or interviews will be limited to providing support and advice to the Party. Advisors will not represent or otherwise advocate on behalf of the parties during the investigation process. An attorney advising a Party must enter a notice of appearance with the Title IX Coordinator and the Investigator at least five (5) business days before the initial interview or meeting they plan to attend, so the College can secure its own legal representation, if necessary.
- D. In cases involving allegations of Sex-based Harassment, the Investigator will provide both parties and their respective Advisors with an equal opportunity to review the draft investigation report and to inspect and review Relevant and not otherwise impermissible evidence upon request. After disclosure of the report, each Party will receive ten (10) calendar days in which to submit a written response, which the investigator will consider prior to completion of the investigation report. If a Party fails to submit a written response within ten (10) calendar days, the Party will be deemed to have waived their right to respond and the investigator will finalize the

report without this information.

- E. During Sex Discrimination and Sex-based Harassment investigations under this Procedure, the investigator may not require, allow, rely upon, or otherwise use questions or evidence that seeks disclosure of privileged communications, unless the privilege has been effectively waived by the holder. This provision applies, but is not limited to, information subject to the following:
 - 1 Spousal/domestic partner privilege;
 - 2 Attorney-Client and attorney work product privileges;
 - 3 Privileges applicable to members of the clergy and priests;
 - 4 Privileges applicable to medical providers, mental health therapists, and counsellors;
 - 5 Privileges applicable to sexual assault and domestic violence advocates; or
 - 6 Other legal privileges identified in RCW 5.60.060.

- F. Prior Sexual Behavior. Questions or evidence about a Complainant's sexual predisposition or prior sexual behavior are not Relevant and must be excluded, unless such question or evidence:
 - 1 Is asked or offered to prove someone other than the Respondent committed the alleged misconduct; or
 - 2 Concerns specific incidents of prior sexual behavior between the Complainant and the Respondent, which are asked or offered on the issue of consent.

- G. Upon completion of the investigation, the Title IX Coordinator will distribute the final investigation report to the Parties. The Title IX Coordinator will also provide the investigation report and the evidence gathered during the investigation to the Student Conduct Officer if the Respondent is a student or the employee discipline officer if the Respondent is an employee, who are responsible for determining whether pursuing disciplinary action is warranted.

Dismissal of Complaint During Investigation – Right to Appeal

- A. During an investigation, a Sex Discrimination Complaint may be dismissed, in whole or in part, for the following reasons:
 - 1 The Respondent cannot be identified after the College has taken reasonable steps to do so;
 - 2 The Respondent is not participating in the College's educational Programs or Activities and is not employed by the College. The College's discretion to dismiss a Sex-based Harassment Complaint lodged against a former employee may be limited by RCW 28B.112.070, which requires the College to complete investigations into allegations of sexual misconduct by employees directed at student Complainants unless the Complainant requests otherwise.
 - 3 The Complainant has voluntarily withdrawn any or all of the allegations in the Complaint, and the Title IX Coordinator has declined to initiate their own Complaint, and any remaining allegations would not constitute Sex Discrimination, even if proven. In cases involving allegations of Sex-based Harassment, the College must obtain the Complainant's withdrawal in writing

before dismissal.

- 4 The conduct alleged by the Complainant, even if proven, would not constitute Sex Discrimination; or
 - 5 The conduct alleged by the Complainant falls outside the College's disciplinary jurisdiction.
- B. The Complainant and the Respondent (if the Respondent has been notified of the Complaint) may appeal the dismissal of a Complaint pursuant to either the appeal process in the [Procedure 235.5A: Employee Sex Discrimination Discipline Procedure](#) if the Respondent is an employee or the Student Conduct Code appeal process ([WAC 132M-126](#)) if the Respondent is a student.
- C. If the dismissal occurs during the investigation, the Title IX Coordinator will provide the Complainant or the Complainant and the Respondent (if the Respondent has been notified of the Complaint) written notice explaining:
- 1 Why dismissal was necessary or desirable;
 - 2 The right to appeal the dismissal and a description of the procedure for appealing the dismissal; and
 - 3 If applicable, notice that the Complaint is being referred to an appropriate disciplinary authority for proceedings outside the jurisdiction of Title IX.
- D. If the Dismissal involves an allegation of Sex-based Harassment and the Parties have both been notified of the investigation, the Notice of Dismissal will be served on the Parties simultaneously.
- E. When a Complaint is dismissed, the Title IX Coordinator will, at a minimum:
- 1 Offer Supportive Measures to the Complainant as appropriate;
 - 2 If the Respondent has been notified of the allegations, offer Supportive Measures to the Respondent as appropriate; and
 - 3 Take other prompt and effective steps, as appropriate, to ensure that Sex Discrimination does not continue or recur within the College's education Program or Activity.
- F. Dismissal of a Sex Discrimination Complaint does not preclude the College from investigating and pursuing discipline based on allegations that a Respondent violated other federal or state laws and regulations, College conduct policies, and/or other codes and contractual provisions governing student and employee conduct.

Supportive Measures

- A. The Title IX Coordinator must offer and coordinate Supportive Measures to both the Complainant and the Respondent. Supportive Measures may vary depending on the circumstances and what the College may determine to be reasonably available. Supportive Measures may include, but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, college work, college

housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to Sex-based Harassment.

- B. Supportive Measures may not be imposed for punitive or disciplinary purposes.
- C. Supportive Measures must not unreasonably burden either Party and must be designed to protect the safety of the Parties and/or the College's educational environment, or to provide support to the Parties during the formal or informal resolution processes.
- D. The Title IX Coordinator may modify or terminate Supportive Measures during or after formal or informal resolution procedures are completed, as the Parties' and/or the College's circumstances change.
- E. If, at any point during the Sex Discrimination investigation or disciplinary proceeding, a Party becomes dissatisfied with their Supportive Measures or undergoes a change of circumstances that warrants revisions to their Supportive Measures, the Party may submit a request to revise their Supportive Measures to the Title IX Coordinator. The Title IX Coordinator will respond to such a request within five (5) business days. If the Party disagrees with the Title IX Coordinator's decision, they may submit a written appeal to the Director of Human Resources or designee within five (5) business days of receiving the Title IX Coordinator's decision. Review of the appeal shall be performed by an impartial employee with authority to modify or reverse the Title IX Coordinator's decision to provide, deny, modify or terminate Supportive Measures applicable to the Party seeking review. Challenged Supportive Measures will be reviewed to determine whether they are meeting the purposes set forth in Paragraph 3 above.
- F. In cases involving allegations of Sex Discrimination other than Sex-based Harassment and Retaliation, the College is not required to alter the alleged discriminatory practice(s) for the purpose of providing a Supportive Measure.

Emergency Removal

If a student Respondent poses an immediate threat to the health and safety of the College Community or an immediate threat of significant disruption to College operations, the College's Student Conduct Officer, after consulting with the Title IX Coordinator, may summarily suspend the Student Respondent pursuant to WAC 132M-126-100. The Summary Suspension shall remain in place pending completion of the investigation and final resolution of any resulting disciplinary proceedings.

Nothing in this Investigation Procedure prohibits the College from placing an employee Respondent on administrative leave pending completion of the investigation and final resolution of any resulting disciplinary proceeding.

Complaint Resolution and Consolidation

The Sex Discrimination resolution processes are initiated when the Title IX Coordinator receives a written or oral Complaint from a Complainant alleging that a Respondent(s) discriminated against them on the basis of their sex and the Complainant asks that the College initiate an investigation. A Complaint may be submitted by the Complainant orally or in writing or it may be initiated and signed by the Title IX Coordinator on behalf of the Complainant. Complaints submitted to the Title IX Coordinator may be resolved through either informal or formal resolution processes.

1 Informal Resolution

Under appropriate circumstances and only if the Complainant and the Respondent voluntarily agree, the Parties may pursue informal resolution during the investigation of a concern. Informal Resolution is not appropriate when the allegation involves:

- a. a Complainant who is a minor or a vulnerable adult;
- b. a Respondent poses an immediate threat to the health, safety or welfare of a member of the College community;

If Informal Resolution is appropriate, the Parties may explore resolution through:

- a. Guided conversations or communications conducted by the Title IX Coordinator, a Human Resource Representative, or some other mutually agreed upon third party;
- b. A structured resolution process conducted by a trained mediator; or
- c. Voluntary agreement between the Parties to alter either or both Parties' College work or class schedules and/or College student housing arrangements.

A proposal to engage in Informal Resolution should be provided to the Parties in the Notice of Investigation or after the Notice of Investigation has been served on both Parties.

Before engaging in informal resolution, the College must provide written notification to the Parties of their rights and responsibilities. This notice shall explain:

- a. The allegations;
- b. The requirements of the informal resolution process;
- c. That, prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and initiate or resume the formal resolution process;
- d. That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will prevent the Parties from initiating or resuming the Formal Resolution process;
- e. That the potential terms of any Informal Resolution agreement will only be binding on the Parties to the agreement; and
- f. What information the College will retain from the informal

resolution process and how that information will be used, if the process is not successful and the formal resolution process is initiated or resumed.

Because the informal resolution process is voluntary, either Party may withdraw from the Informal Resolution process at any time, at which point the formal investigation process will resume.

If the Parties voluntarily resolve a Complaint, the College will record the terms of the resolution in a written agreement signed by both Parties and provide written notice to both Parties that the Complaint has been closed.

If the Parties agree to an informal resolution process, the College will commence informal resolution within ten (10) business days after the parties agree to this option and conclude within ten (10) business days of beginning that process; subject to reasonable delays and extensions for good cause shown.

2 Formal Resolution

Formal resolution means that the Complainant's allegations of Sex Discrimination will be subjected to a formal investigation by an impartial and unbiased investigator. The investigation may be conducted by the Title IX Coordinator. The results of the investigator's report will be shared with the Parties, the Title IX Coordinator, as well as the appropriate disciplinary authority who is responsible for determining whether disciplinary proceedings are warranted.

3 Consolidation of Complaints

Complaints of Sex Discrimination may be consolidated when the Complaints are 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.

History

The procedure repeals and replaces [Procedure 235.2A – Discrimination and Harassment Title IX Grievance Procedure](#) for any conduct occurring after July 31, 2024.