

	Policy Number: 813	
	Policy Category: <i>Ethical and Responsible Conduct Policies</i>	
	Title IX Sexual Harassment	
	Policy Summary: <i>This policy prohibits sexual harassment including rape, fondling, dating and domestic violence, stalking and unwelcome conduct on the basis of sex, requires supportive measures in response to reports, and provides both informal and formal procedures for resolving sexual harassment complaints.</i>	
	Approval Date: 09/11/23	Effective Date: Upon approval
	Policy Owner: <i>Dean, Student Affairs</i>	Scheduled for Review: <i>Fall 2026</i>

Policy Statement

This Title IX Sexual Harassment policy is based on definitions set forth in regulations promulgated by the U.S. Department of Education under Title IX of the Education Amendments Act of 1972. This policy limits the scope of Title IX Sexual Harassment to, among other things, conduct that occurs within the United States and conduct that occurs within the College's education program or activity (a concept further defined and discussed below).

The College Sexual Misconduct policy applies only to certain conduct, as defined under that policy. Specifically, the College Sexual Misconduct policy applies to forms of sexual misconduct that do not fall under the scope of the Title IX Sexual Harassment policy, including Sexual Exploitation, Improper Conduct related to Sex, and College Sexual Harassment. The College Sexual Misconduct policy also applies to certain conduct that would otherwise be prohibited under the Title IX Sexual Harassment policy (e.g., Sexual Assault, Domestic Violence, Dating Violence, and Stalking), but which must be dismissed under the Title IX Sexual Harassment policy because they do not meet the jurisdictional requirements.

Academic Freedom

This policy will not be interpreted to inhibit or prohibit educational content or discussion inside or outside of the classroom that includes controversial or sensitive subject matter protected by academic freedom.

Academic freedom extends to topics that are pedagogically appropriate and germane to the subject matter of the courses or that touch on academic exploration of matter of public concern. The College will respond to reports or formal complaints of conduct prohibited under this policy with measures designed to stop the prohibited conduct, prevent its recurrence, and remediate any adverse effects of such conduct on campus or in College-related programs or activities.

1. Compliance Responsibility

The Title IX Coordinators oversee compliance of Title IX Sexual Harassment in accordance with Federal Regulations as well as incidents falling under the Prescott College Sexual Misconduct policy.

Title IX Coordinators will be informed of all reports or formal complaints of violations of this policy, and oversee the College's centralized response to ensure compliance with Title IX and the 2013 Amendments to the Violence Against Women Act (VAWA). The Title IX Coordinator's responsibilities include (but are not limited to):

- Communicating with all members of the College community regarding Title IX and VAWA, and providing information about how individuals may access their rights;
- Reviewing applicable College policies to ensure institutional compliance with Title IX and VAWA;
- Monitoring the College's administration of its own applicable policies, including this policy and the Prescott College Sexual Misconduct Policy and all related record keeping, timeframes, and other procedural requirements;
- Conducting training regarding Title IX, VAWA, and prohibited conduct defined in this policy and related policies; and
- Responding to any report or formal complaint regarding conduct that violates this policy. For any report of which the College has actual knowledge (and any formal complaint), the Title IX Coordinator shall oversee and implement the explanation and provision of any supportive measures. For any formal complaint, the Title IX Coordinators oversee the investigation and resolution of such alleged misconduct, direct the provision of any additional supportive measures, and monitor the administration of any related appeal.

The Title IX Coordinators may delegate certain responsibilities under this policy to Title IX Investigators or other designated and trained administrators.

2. Contact Information

a. Title IX Coordinators

Susan Krause, Deputy Title IX Coordinator, 928-350-4402, susan.krause@prescott.edu

Information a party shares with Confidential Resources will not be shared with the Title IX Office or any other individual without the individual's express written permission.

Exceptions are made if there is an imminent threat of serious harm to the individual or to others, or a legal obligation to reveal such information (e.g., if there is suspected abuse or neglect of a minor).

b. Prescott College Confidential Resource

Tony Himes- 928-848-1111

c. Disability Resources

Lisa Whittaker- accommodations@prescott.edu

d. Responsible Employees (see Definitions for the definition of Responsible Employees)

i. Mandated reporters

- Housing and Residence Life Professional Staff
- Resident Assistants (RA's)
- College Deans
- College Advisors

For any complaints received by the Title IX Office or an Official with Authority, involving an employee the Title IX Office will communicate with the appropriate persons in Human Resources. If Human Resources receives a complaint related to this policy they will consult with the appropriate Title IX Coordinator or their designee.

e. External Inquiries

Inquiries may be made externally to:

Office for Civil Rights (OCR)

U.S. Department of Education 400 Maryland Avenue, SW Washington, D.C. 20202-1100

Customer Service Hotline #: (800) 421-3481

Facsimile: (202) 453-6012

TDD#: (877) 521-2172

Email: OCR@ed.gov

Web: <http://www.ed.gov/ocr>

For complaints involving employees:

Phoenix District Office (*Arizona*)

3300 North Central Avenue Suite 690

Phoenix, AZ 85012-2504

Phone: (800) 669-4000

Fax: (602) 640-5071

TTY: (800) 669-6820

ASL Video Phone: (844) 234-5122

EEOC has jurisdiction over Title IX employment claims. Please consult:

<http://www.eeoc.gov/field/index.cfm> to locate your local office's contact info.

To raise any concern involving possible bias, conflict of interest, misconduct or discrimination by the Title IX Coordinator, contact the President Dr. Barbara Jean Morris 928-778-2090.

Concerns of possible bias, conflict of interest, misconduct, or discrimination by any other Title IX Team member should be raised with the Title IX Coordinator.

3. Prohibited Conduct

This policy addresses Title IX Sexual Harassment, which encompasses all of the prohibited conduct described below that occurs on the basis of sex and meets all of the following requirements:

- Occurs within the United States; and
- Occurs within the College's education program or activity, meaning
 - locations, events, or circumstances over which the College exercises substantial

- control over both the respondent and the context in which the Title IX Sexual Harassment occurs, and
- any building owned or controlled by a student organization that is officially recognized by the College; and
- At the time of filing a formal complaint, a complainant is participating in or attempting to participate in the education program or activity at the College.

Allegations of sexual misconduct that do not fall under this policy because they do not constitute prohibited conduct as defined in this section may constitute violations of the College Sexual Misconduct Policy.

In determining whether alleged conduct violates this policy, the College will consider the totality of the facts and circumstances involved in the incident, including the nature of the alleged conduct and the context in which it occurred. Individuals of any gender can commit any of the prohibited conduct defined in this policy, and it can occur between individuals of the same gender or different genders. It can occur between strangers or acquaintances, as well as people involved in intimate or sexual relationships.

The prohibited behaviors listed below are serious offenses and will result in College discipline. Prohibited conduct involving force, duress, or inducement of incapacitation, or where the perpetrator has deliberately taken advantage of another individual's state of incapacitation, will be deemed especially egregious and may result in expulsion or termination of employment. The respondent's consumption of alcohol or the use of illegal substances does not constitute a mitigating circumstance when it contributes to a violation under this policy.

Prohibited Behaviors are:

- a. **Quid Pro Quo Sexual Harassment:** An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
- b. **Sexual Harassment:** Sexual harassment is unwelcome sexual attention made by a person who knows, or reasonably should know that such attention is unwanted. Sexual harassment encompasses sexual, sex based and gender-based verbal, written, online and/or physical conduct when:
 - Such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; or
 - Such conduct by an individual is used as the basis for employment or academic decisions affecting the individual; or
 - Such conduct has the purpose or effect of unreasonably interfering with an individual's academic, social or professional performance, or creating an intimidating, hostile or demeaning employment or educational environment.
- c. **Sexual Assault:** Any sexual act directed against another person, without the consent of the individual, including instances where the person is incapable of giving consent. Sexual assault can occur between individuals of the same or different sexes and/or genders. This includes the following:
- d. **Rape:** The carnal knowledge of a person, without the consent of the individual, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;

- e. Sodomy: Oral or anal sexual intercourse with another person, without the consent of the individual, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- f. Sexual Assault with an Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the individual, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- g. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the individual, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- h. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
- i. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent in the state that the incident occurred.
- j. Domestic Violence: A felony or misdemeanor crime of violence committed:
 - by a current or former spouse or intimate partner of the complainant;
 - by an individual with whom the individual shares a child in common;
 - by an individual who is cohabitating with, or has cohabitated with, the individual as a spouse or intimate partner;
 - by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction in which the felony or misdemeanor crime of violence occurred;
 - by any other individual against an adult or youth complainant who is protected from that individual's acts under the domestic or family violence laws of the jurisdiction in which the felony or misdemeanor crime of violence occurred. For purposes of this policy, an intimate partner is defined as an individual with whom one has or had a short- or long- term relationship that provides romantic and/or physical intimacy or emotional dependence. Intimate relationships can occur between individuals of the same gender or different genders and may include (but are not limited to) marriages, civil unions, dating relationships, "hook-up" relationships, relationships in which partners are characterized as "girlfriends" or "boyfriends," and relationships between individuals with a child in common.
- k. Dating Violence: Violence committed by an individual who is or has been in a social relationship of a romantic or intimate nature with the complainant. 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 include acts covered under the definition of domestic violence.
- l. Stalking: Engaging in a course of conduct directed at a specific individual that would cause a reasonable person to:
 - fear for the individual's safety or the safety of others; or
 - suffer substantial emotional distress.For the purposes 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.

- *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the complainant.
- *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

4. Retaliation under this policy:

No individual may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this policy or because an individual has made a report or formal complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

The College retains the right to charge an individual for making a materially false statement in bad faith during the course of an investigation, proceeding, or hearing under this policy. The College will not conclude that any individual has made a materially false statement in bad faith solely based on the determination regarding responsibility.

Complaints alleging retaliation under this Title IX Sexual Harassment policy, including for the exercise of rights under this policy, must be filed in accordance with this policy and will be addressed promptly and equitably. Where the individual allegedly retaliating is not affiliated with the College and not otherwise, subject to its policies, the College will process the complaint and respond appropriately.

Notwithstanding the above, the exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this policy. Charging an individual with a College violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation; provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

5. Consent

For purposes of this policy, consent and incapacitation are defined as follows:

- a. Consent - The College considers consent as 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. Indications that consent is not present include but are not limited to:
 - When physical force is used or there is a reasonable belief of the threat of physical force.
 - When duress is present.
 - When one individual overcomes the physical limitations of another individual.
 - When an individual is incapable of making an intentional decision to participate in a sexual act, which could include instances in which the individual is in a state of incapacitation.

Important points regarding consent include:

- Consent to one act does not constitute consent to another act.
- Consent on a prior occasion does not constitute consent on a subsequent occasion.
- The existence of a 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 of dress.
- Accepting a meal, a gift, or an invitation for a date does not imply or constitute consent.
- Silence, passivity, or lack of resistance does not necessarily constitute consent.
- Initiation by someone who a reasonable person knows or should have known to be deemed incapacitated is not consent.

- b. For purposes of this policy, incapacitation (or incapacity) is the state in which an individual's perception or judgment 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 a sexual activity. Engaging in sexual activity with an individual who is incapacitated (and therefore unable to consent), where an individual knows or ought reasonably to have understood that the individual is incapacitated, constitutes Title IX Sexual Harassment as defined by this policy.

6. Assessment and Dismissal of Formal Complaints

Upon receipt of a formal complaint, the Title IX Coordinator will respond to any immediate health or safety concerns raised. The Title IX Coordinator will then conduct an initial assessment for the sole purpose of determining whether the alleged conduct, if substantiated, would constitute prohibited conduct under this policy. The College will seek to complete this initial assessment within ten (10) business days of receipt of the formal complaint. Following the initial assessment, the Title IX Coordinator may take any of the following actions:

If the allegations forming the basis of the formal complaint would, if substantiated, constitute prohibited conduct 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 under this policy in a formal complaint. However, if the Title IX Coordinator deems 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, if substantiated, would not constitute prohibited conduct as defined in this policy, the Title IX Coordinator shall dismiss the formal complaint from the Title IX grievance process (and either party may appeal this dismissal, as discussed below). However, if appropriate, the Title IX Coordinator may refer the matter to the College Sexual Misconduct process or to another office for review; or, if the Title IX Coordinator deems 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.

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

- The complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled or employed by the College; or
- 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 College 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 through the appeal process.

The determination regarding dismissal becomes final either on the date that the parties are provided with the written determination of the result of an appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. Once final, a complainant cannot file a formal complaint under this policy concerning the same alleged conduct.

7. Confidentiality, Privacy, and Related Responsibilities

Issues of privacy and confidentiality play important roles in this policy, and may affect individuals differently. Privacy and confidentiality are related but distinct terms that are defined below.

In some circumstances, the reporting responsibilities of College employees, or the College's responsibility to investigate, may conflict with the preferences of the complainant and/or respondent with regard to privacy and confidentiality. Therefore, all individuals are encouraged to familiarize themselves with their options and responsibilities, and make use of confidential resources, if applicable, in determining their preferred course of action.

a. Confidentiality and Confidential Resources

The term "confidentiality" refers to the circumstances under which information will or will not be disclosed to others.

Several campus professionals are designated as Confidential Resources, to whom confidentiality attaches. Confidential Resources are not obligated to report information that is provided to them. This allows individuals to explore their options in a non-pressured environment while they make informed decisions. There may be exceptions in cases involving child abuse, imminent risk of serious harm, emergent hospitalization, or a court order. In addition, non-identifying information about violations of the College's Title IX Sexual Harassment Policy will be submitted to Campus Safety and Security for purposes of the anonymous statistical reporting under the Clery Act.

An individual who is not prepared to make a report or formal complaint, or who may be unsure how to label what happened, but still seeks information and support, is strongly encouraged to contact a Confidential Resource or the Title IX Coordinators. Confidential Resources are listed in the Administrator's Contact Information section at the beginning of this policy.

The College has an obligation to respond promptly and effectively to individuals alleged to be the victims of Sexual Harassment as defined by the Title IX policy.

College employees who are designated as Mandatory Reporters or Others with Authority are required to notify the Title IX Coordinator of suspected violations of this policy, and cannot guarantee the confidentiality of a report under this policy. Other College employees may report the incident or concern to the Title IX Coordinator with the complainant's authorization.

b. Confidentiality Rights of Complainants and Respondents

While complainants, respondents, and witnesses involved in the grievance process under this policy are strongly encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation, complainants and respondents are not restricted from discussing the allegations under investigation.

Medical, psychological, and similar treatment records are privileged and confidential documents that cannot be accessed or used for a grievance process under this policy without the relevant party's voluntary, written consent.

c. Privacy

The term "privacy" refers to the discretion that the College will exercise in the course of any investigation or grievance processes under this policy.

In all proceedings under this policy, the College will take into consideration the privacy of the parties to the extent possible.

In cases involving students, the Title IX Coordinator may notify select College employees of the existence of the report and/or formal complaint for the purpose of overseeing compliance with this policy and addressing any concerns related to educational and residential life.

In accordance with federal regulations, the College will keep confidential the identity of any individual who has made a report or formal complaint under this policy, including any complainant, any individual who has been reported to be the perpetrator, any respondent, and any witness, except as may be permitted by Family Educational Rights and Privacy Act (FERPA), or as required by law, or to carry out the purposes of conducting any investigation or hearing under this policy.

Any additional disclosure by the College regarding information related to the report or formal complaint may be made if consistent with FERPA or the Title IX requirements. In addition, governmental agencies, such as the National Science Foundation, may mandate certain reporting related to prohibited conduct under this policy involving College employees or students.

d. Release of Information

If Risk Management becomes aware of a serious and continuing threat to the campus community, Risk Management may issue a timely warning in accordance with federal regulation to protect the health or safety of the community. Risk Management may also publish a reported incident in the daily crime log or annual security report. In addition, the College may also share non-identifying information, including data about

outcomes and sanctions, in aggregate form. The College will not disclose the name or other personally identifiable information of the complainant unless it has received the express consent of the complainant or unless the release of such information is consistent with legal requirements or mandated by law.

8. Options for Complainants, Respondents, and Other Reporting Individuals

A complainant, respondent, or witness has many options, including counseling and support services. Information regarding contact information for local law enforcement and medical assistance is provided in Appendix B.

A complainant may:

- Request supportive measures from the Title IX Coordinator.
- File a formal complaint with the Title IX Coordinator, thereby invoking the College's internal grievance process.
- Contact the Title IX Coordinator for assistance in filing a criminal complaint and preserving physical evidence.
- Contact local law enforcement to file a criminal complaint. At the complainant's request, the College will assist the complainant in contacting local law enforcement and will cooperate with law enforcement agencies if a complainant decides to pursue a criminal process.

An individual may pursue some or all of these steps at the same time. When initiating any of the above, an individual does not need to know whether they wish to request any particular course of action, nor how to label what happened.

a. Employees' Responsibility to Report

In emergency situations where a suspected crime is in progress or imminent or serious threats to the safety of anyone, employees must immediately contact 911.

In non-emergency situations, employees who are designated as Officials with Authority under this policy, must promptly report suspected violations of this policy to the Title IX Coordinator. Responsible employees with the written authorization of the complainant must promptly report alleged violations of this policy to the Title IX Coordinator.

Students are encouraged to report any suspected violation of this policy.

b. Anonymous Reporting

Any individual may make an anonymous report alleging violation of this policy using the online Title IX Grievance form. However, the College cannot consider an anonymous report as a formal complaint because there is very limited action if any the College can take without knowing the complainant making the allegation.

c. Timeliness of Report

Complainants and other reporting individuals are encouraged to report any violation of this policy as soon as possible in order to maximize the College's ability to respond promptly and effectively. Reports and formal complaints may be made at any time without regard to how much time has elapsed since the incident(s) in question. If the

respondent is no longer a student or employee at the time of the report or formal complaint, the College may not be in a position to gather evidence sufficient to reach a determination as to the formal complaint and/or the College may not be able to take disciplinary action against the respondent. However, the College will still seek to provide support for the complainant and seek to take steps to end the prohibited behavior, prevent its recurrence, and address its effects.

d. Amnesty

In order to encourage reports of conduct that is prohibited under this policy, the College may offer leniency with respect to other violations, which may become known as a result of such reports, depending on the circumstances involved.

e. Supportive Measures for Complainants and Respondents

Upon receipt of a report or formal complaint of a violation of this policy, the College, through the Title IX Coordinator, will promptly:

- Contact the complainant to discuss the availability of supportive measures;
- Consider the complainant's wishes with respect to supportive measures; and
- Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

The College will also consider supportive measures, as appropriate and reasonably available, for the respondent.

These supportive measures are designed to restore or preserve equal access to the College's educational and working programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties and the broader College community, or deter sexual harassment. While a supportive measure may impose some restrictions on a party, it will not unreasonably burden them. The College may provide supportive measures to the complainant or respondent, as appropriate, as reasonably available, and will do so without fee or charge, regardless of whether the complainant seeks formal disciplinary action. Once supportive measures are approved, the parties or affected individuals will be notified in writing of the supportive measures. The College will maintain any supportive measures provided to the complainant or respondent as confidential to the extent possible.

Supportive measures may include:

- counseling;
- extensions of deadlines or other course-related adjustments;
- modifications of work or class schedules;
- 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/or
- any other measure that can be used to achieve the goals of this policy.

Requests for supportive measures may be made by or on behalf of the complainant or

respondent to any College official, including the Title IX Coordinator. The Title IX Coordinator is responsible for ensuring the implementation of supportive measures and coordinating the College's response with the appropriate offices on campus.

All individuals are encouraged to report concerns about the failure of another to abide by any restrictions imposed by a supportive measure. The College will take immediate action to enforce a previously implemented measure and disciplinary sanctions can be imposed for failing to abide by a College-imposed measure.

f. Emergency Removal

The College may summarily remove an individual from an education program or activity on an emergency basis after an individualized safety and risk analysis, where a determination is made that the individual poses an immediate threat to the physical health or safety of any student, other individual or themselves. In these situations, the Title IX Coordinator will provide the individual with notice and an opportunity to challenge the decision immediately following the removal.

g. Informal Resolution Process

Subject to the consent of the parties and the approval of the Title IX Coordinator, the College permits informal resolution processes in cases in which a formal complaint has been filed with the Title IX Coordinator. Subject to approval by the Title IX Coordinator, the informal resolution process is available in matters involving a student complainant and a student respondent as well as in matters involving a faculty/staff complainant and a faculty/staff respondent; the informal resolution 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 College's formal grievance processes under the Title IX Sexual Harassment policy. The purpose of the informal resolution process is to address the conduct, which has been reported by the complainant, and place the parties in a position to pursue their academic and non-academic interests in a safe, respectful, and productive educational and working environment.

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. They must receive written notice disclosing: the allegations, the requirements of the informal resolution process (including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations), and any outcomes resulting from participating in the informal resolution process (including the records that will be maintained or could be shared). At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the Title IX Sexual Harassment grievance process with respect to the formal complaint.

The College will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver

of the right to an investigation and adjudication of formal complaints of Title IX Sexual Harassment. Similarly, the College will not require, encourage, or discourage the parties from participating in the informal resolution process. The College will not offer the informal resolution process unless a formal complaint is filed.

See Appendix C for additional information regarding the informal resolution process.

9. Grievance Procedures for Title IX Sexual Harassment Complaints, In General

The College is committed to providing a prompt and impartial investigation and adjudication of all formal complaints alleging violations of this policy. During the grievance process, both parties (complainant and respondent) have equal rights to participate.

a. Conflict of Interest

All individuals who have responsibilities in administering the grievance process under this policy must be free of any conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent and will be trained as required by federal regulations. Parties will be notified at the appropriate junctures of the identities of the individuals serving as investigators, Hearing Decision-Makers, Sanctioning Authority, and Appeal Decision-Maker. A party who has concerns that one or more of the individuals performing one of the aforementioned roles has conflicting interest or is biased must report those concerns to the Title IX Coordinator within two (2) business days of being notified of their identities and include a brief explanation of the basis for the conflict or bias concern. The Title IX Coordinator will assess the allegations of conflict or bias to determine whether the identified individual(s) can fulfill their duties in an impartial way. If the Title IX Coordinator concludes that the facts and circumstances support the claim of conflict or bias, the pertinent individual(s) will not participate in the case.

b. Responsibility to Review Reports and Formal Complaints

In order to protect the safety of the campus community, the Title IX Coordinator may review reports of violations of this policy even absent the filing of a formal complaint, or under certain circumstances, even if a formal complaint has been withdrawn. The Title IX Coordinator may need to themselves file a formal complaint and proceed with an investigation even if a complainant specifically requests that the matter not be pursued. In such a circumstance, the Title IX Coordinator will take into account the complainant's articulated concerns, the best interests of the College community, fair treatment of all individuals involved, and the College's obligations under Title IX.

c. Presumption of Good Faith Reporting

The College presumes that reports of prohibited conduct are made in good faith. A finding that the alleged behavior does not constitute a violation of this policy or that there is insufficient evidence to establish that the alleged conduct occurred as reported does not mean that the report was made in bad faith.

d. Presumption of Non-Responsibility

The respondent is presumed not to be responsible for the alleged conduct unless and until a determination regarding responsibility is made at the conclusion of the grievance

process.

e. Honesty and Cooperation during Grievance Process

The College expects all members of the College community to be honest and cooperative in their official dealings with the College under this policy. In this regard, individuals are expected to acknowledge requests from College officials for information in a timely fashion and to make themselves available for meetings with College officials or any officials acting on behalf of the College; any student or member of the faculty or staff who fails to do so may be subject to discipline. However, parties and witnesses may choose not to attend the hearing or may choose not to participate in cross-examination at the hearing.

f. Advisors

Throughout the grievance process, each party may have an advisor of their choice; parties may change their advisor at any time during the grievance process. An advisor is an individual chosen by a complainant or a respondent to provide guidance during the grievance process. An advisor may be a member or non-member of the College community, and may be an attorney. If one party seeks to engage an attorney, the College will not provide an attorney for the other party.

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 must attend the hearing and is required to conduct cross-examination of the other party and any witnesses at the hearing; otherwise, the advisor may not actively participate in the hearing.

If a party does not have an advisor present at the hearing to conduct cross-examination, the College will provide without fee or charge to that party an advisor selected by the College to conduct cross-examination of the other party and/or any witnesses.

Any individual who serves as an advisor is expected to make themselves available for meetings and interviews throughout the investigation process, as well as the hearing, as scheduled by the College. The College (including any official acting on behalf of the College such as an investigator or a Hearing Decision-Maker) has the right at all times to determine what constitutes appropriate behavior on the part of an advisor and to take appropriate steps to ensure compliance with this policy.

g. Prior Sexual Behavior

The complainant's predisposition or prior sexual behavior are not relevant and will not be used during the grievance process. Exceptions may be considered as an attempt to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainants' prior sexual behavior with respect to the respondent and are offered to prove consent.

h. Consolidation

The Title IX Coordinator has the discretion to consolidate multiple formal complaints as to allegations of Title IX Sexual Harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances.

10. Investigation of Allegations Pertaining to Other College Policies

Allegations under the College Sexual Misconduct Policy

When an initial assessment or investigation under this policy identifies additional related possible violations of the College Sexual Misconduct policy by the same party(ies), the grievance process set forth in the Title IX Sexual Harassment policy and procedures will apply to all allegations. Under such circumstances, the parties will be provided with written notice containing the following information: (a) the alleged prohibited conduct, and (b) the policy(ies) under which alleged prohibited conduct falls.

Violation of Other College Policies

During an initial assessment or investigation, other possibly related violations by the same party(ies) may be identified. The Title IX Coordinator may direct the Title IX Investigator to investigate those possible violations of other College Policies, at the same time that they are investigating the allegations falling under this policy.

Under those circumstances, the outcomes from the investigation of the non-Title IX Sexual Harassment matter will be provided to the office of responsibility as a matter of record.

Procedures Where One Party Is a Member of the College Community and the Other Party Is a Non-Member of the College Community

When a third party, (i.e., a non-member of our College community, which could include, for example, alumni) is a party under this policy, the College will use disciplinary procedures that are generally consistent with the disciplinary procedures described in this policy, appropriately modified based on the particular circumstances of the case and taking into account privacy requirements and the like. In no case will a member of our community (i.e., current student, faculty member, or staff member) be afforded lesser rights or lesser opportunities to participate in the disciplinary proceeding than the non-member of the College community.

a. Investigation and Adjudication

Timing

The College will seek to complete the investigation and adjudication within ninety (90) business days after the investigators' first interview of the complainant. Investigations will proceed according to the aforementioned timeframe during the summer and at other times when the College is not in session. Timeframes for all phases of the grievance process, including the investigation, the hearing, and any related appeal, apply equally to both parties.

There may be circumstances that require the extension of time frames for good cause. Time frames may be extended to ensure the integrity and completeness of the investigation or adjudication, comply with a request by external law enforcement, accommodate the absence of a party, advisor, or witness, or for other legitimate reasons, including the complexity of the investigation and the severity and extent of the alleged misconduct. The College will notify the parties in writing of any extension of the time frames for good cause, and the reason for the extension.

In accordance with College policy, the College will review requests for language assistance and accommodation of disabilities throughout the investigation and adjudication process.

Although cooperation with law enforcement may require the College to temporarily suspend the fact-finding aspect of an investigation, under such circumstances, the College will promptly resume its investigation as soon as it is notified by the law enforcement agency that the agency has completed the evidence gathering process. The College however, will not wait for the conclusion of a criminal proceeding to begin its own investigation and, if needed, will take immediate steps to provide supportive measures for the complainant or respondent. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this policy has occurred.

Investigation

If the Title IX Coordinator has determined, following an initial assessment, that an investigation is appropriate, the Title IX Coordinator will appoint a Title IX Investigator.

Notice of Investigation

Following the receipt and review of the formal complaint by the Title IX Coordinator, and it being determined that the matter properly falls under this Title IX Sexual Harassment policy, the parties will be informed in writing of the initiation of the investigation. The written information shall include:

- The identities of the parties, if known.
- A concise summary of the alleged conduct at issue (including when and where it occurred, if known).
- Notice of the allegations potentially constituting Title IX Sexual Harassment.
- A statement that the respondent is presumed not responsible and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement informing the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney.
- A statement informing the parties that they will have the opportunity to inspect, review evidence and provide final comments.
- A statement informing the parties that knowingly making false statements or knowingly submitting false information during the grievance process may constitute a violation of College policy.
- Information regarding the applicable grievance procedures, including the informal resolution process.

If, during the investigation, additional information is disclosed that may also constitute prohibited conduct under this policy, the respondent and complainant will be informed in writing that such additional information will be included in the grievance process.

Gathering of Evidence

The investigator will gather information from each party. While the complainant and the respondent are not restricted from gathering and presenting relevant evidence, the investigator is responsible for gathering relevant evidence to the extent reasonably possible. Each party will be given an equal opportunity to suggest witnesses, provide other relevant information, such as medical, mental health, or law enforcement documentation, communications, photographs, and other evidence. Both parties may suggest questions to be posed to the other party or witnesses. Parties and witnesses are expected to provide all available relevant evidence to the investigator during the investigation. If a party or witness fails to provide available relevant evidence during the investigation, such evidence may, at the discretion of the Hearing Decision-Maker, be excluded from consideration at the hearing.

The Title IX Investigator will provide written notice no less than three (3) business days prior to the meeting with a Title IX Investigator. The written notice will include:

- Date
- Time
- Location and/or method
- Purpose
- Any other person(s) who will be attending the meeting

A Title IX Investigator will interview parties and witnesses separately. On occasion, a Title IX Investigator may seek assistance from another Title IX Investigator for interviewing purposes. The Title IX Investigators will record all interviews or take notes of the interviews. Any other recording of interviews is prohibited and violations may result in discipline.

The investigators will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege (e.g., attorney-client, doctor-patient), unless the individual holding such privilege has waived the privilege.

Case File

After each party has been interviewed and had the opportunity to identify witnesses and other potentially relevant information and evidence, and the investigator has completed any witness interviews and any gathering of evidence, the investigator will prepare a case file. The case file will include all collected evidence that is directly related to the allegations raised in the formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and any inculpatory or exculpatory evidence, whether obtained from a party or other source as part of the investigation. The case file may include, as applicable, transcripts or summaries of party and witness interviews and other collected documents and evidence. The investigator will provide the case file, redacted

of personally identifiable information in accordance with privacy regulations, to each party and their advisor in electronic form or hard copy. In all cases, any information relied on in adjudicating the matter will be provided to the parties and their advisors. The investigator will also provide an updated Notice of the Allegations, as appropriate.

Within ten (10) business days of receiving the case file, each party may respond in writing, which may include a request that the investigator collect additional evidence. If the investigators believe that further information is needed following receipt of any responses from the parties, the investigator will pursue any additional investigative steps as needed. The parties and their advisors will be provided with each party's written responses to the case file, if any, as well as any additional information collected by the investigator, in electronic format or hard copy.

Investigative Report

Following their review of the parties' responses (if any) to the case file, the investigator will create a written investigative report that summarizes all relevant evidence; the report will not contain irrelevant information.

At least ten (10) business days prior to the hearing, the investigative report will be provided to the parties and their advisors via electronic or hard copy format.

The parties may choose to provide a written response to the investigative report, which must be submitted at least five (5) business days prior to the start of the hearing. At least two (2) business days prior to the hearing, the parties and their advisors will be provided with the other party's written response to the investigative report, if any, in electronic or hard copy format.

Hearing

The Hearing Decision-Maker will have absolute discretion with respect to administering the hearing to include deciding whether evidence, cross-examination questions, and witnesses are relevant or irrelevant, with the understanding that the introduction of relevant evidence and witnesses will always be permitted. The Hearing Decision-Maker will be responsible for maintaining an orderly, fair, and respectful hearing and will have broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending individual, including a party, witness, or adviser.

Prior to the hearing, the parties, their advisors, and the Hearing Decision-Maker will be provided with the investigative report, which includes evidence and any responses to the investigative report.

At least ten (10) business days prior to the hearing, the parties and their advisers will be notified of the hearing date, time, and location (or relevant electronic information, if the hearing will be conducted remotely).

In advance of the hearing, parties will be required to identify witnesses to be called at the hearing, as well as to provide a brief written explanation of the information each witness would be asked to provide, so the Hearing Decision-Maker can determine their relevance. The Hearing Decision-Maker has the discretion to exclude from the hearing

evidence/witnesses/questions deemed irrelevant.

At the Hearing Decision-Maker's discretion, pre-hearing meetings may be scheduled with each of the parties and their advisors to explain the hearing protocol.

Standard of Proof

The College uses the preponderance of the evidence (also known as "more likely than not") as a standard for proof of whether a violation occurred. In campus resolution proceedings, legal terms like "guilt," "innocence" and "burdens of proof" are not applicable, but the College never assumes a responding party is in violation of College policy. Campus resolution proceedings are conducted to take into account the totality of all evidence available, from all relevant sources.

Expectation regarding the Complainant, the Respondent, and the Witnesses regarding the Hearing

In all proceedings under this policy, including at the hearing, the complainant, the respondent, and the witnesses and other individuals sharing information are expected to provide truthful information.

If the complainant, the respondent, or a witness informs the College that they will not attend the hearing (or will refuse to be cross-examined), the hearing may proceed, as determined by the Title IX Coordinator. The Hearing Decision-Maker may not, however:

- (a) rely on any statement or information provided by that non-participating individual in reaching a determination regarding responsibility; or
- (b) draw any adverse inference in reaching a determination regarding responsibility based solely on the individual's absence from the hearing (or their refusal to be cross-examined).

Each party may make requests related to the format or the nature of their participation in the hearing. The Hearing Decision-Maker will accommodate requests by either party for the hearing to occur with the parties located in separate locations with technology enabling the Hearing Decision-Maker and the parties to simultaneously see and hear the party answering questions. As appropriate and/or at the discretion of the Hearing Decision-Maker, hearings may be conducted in person or by video conference or any other means of communications by which all individuals participating are able to see and hear each other.

Case Presentation

While the hearing is not intended to be a repeat of the investigation, the parties will be provided with an equal opportunity for their advisors to conduct cross-examination of the other party and/or of relevant witnesses. A typical hearing may include brief opening remarks by the Hearing Decision-Maker; questions posed by the Hearing Decision-Maker to one or both of the parties; questions posed by the Hearing Decision-Maker to any relevant witnesses; and cross-examination by either party's advisor of the other party and relevant witnesses.

The parties' advisors will have the opportunity to cross-examine the other party (and witnesses, if any). Such cross-examination must be conducted directly, orally, and in real time by the party's advisor and never by a party personally. Only relevant cross-examination questions may be asked of a party or witness. Before a party or witness answers a cross-examination question that has been posed by a party's advisor, the Hearing Decision-Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Other College administrators may attend the hearing at the request of or with the prior approval of the Hearing Decision-Maker, but the parties will be notified in advance of anyone else who will be in attendance.

Record of Hearing

The College shall create an official record in the form of a recording or transcript of any live (or remote) hearing and make it available to the parties for inspection and review. Any other record of the hearing or any other recording is prohibited and violations may result in discipline.

Written Determination

The Hearing Decision-Maker shall make a determination, by a preponderance of evidence standard, whether the respondent has violated the policy. The Hearing Decision-Maker will provide to the Title IX Coordinator a written determination that includes:

- The allegations potentially constituting Title IX sexual harassment.
- The findings of fact supporting the determination.
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility (i.e., whether a policy violation occurred).
- The conclusions regarding the application of this policy to the facts.

The Title IX Coordinator will provide the Notification of Outcome to both parties and their advisors. The Notification of Outcome will include the Hearing Decision-Maker's written and signed (or electronic signature) determination. The determination will contain:

- The allegations potentially constituting Title IX sexual harassment.
- A description of the procedural steps taken from the receipt of the formal complaint through the determination (including any notifications to the parties, interviews with parties and witnesses, site visits (if any), methods used to gather other information, and the hearing).
- Findings of fact supporting the determination.
- Conclusions regarding the application of this policy to the facts.
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility (i.e., whether a policy violation occurred).
- Relevant appeal information for the parties.

The parties and their advisors will simultaneously be provided with the written determination and sanctions (if appropriate) via electronic format.

Disciplinary Sanctions and Remedies

After finalizing the written determination, the Hearing Decision-Maker will refer the matter to the appropriate College official(s) to determine sanctions and remedies. Sanctions being imposed will be included in the written final Notice of Outcome Letter.

Sanctions will be set by the following Sanctioning Authority:

If a respondent is found responsible for violating the policy, the case record (consisting of the case file and responses, investigative report and responses, hearing recording, and written determination relating to the finding of responsibility) will be provided to the Title IX Coordinator, who will determine sanctions and remedies in consultation with appropriate College administrators. In the event that the Title IX Coordinator is not available, the case will be provided to the other Title IX Coordinator who will serve as the substitute. Any sanctions and remedies will be included in the Notice of Outcome and will be subject to appeal under this policy.

If an employee (faculty, staff, agent, vendor, etc.) is found responsible, the case record (consisting of the case file and responses, investigative report and responses, hearing recording, and written determination relating to the finding of responsibility) will be forwarded to the Title IX Coordinator who will determine sanctions and remedies in consultation with appropriate College administrators. In the event that the Title IX Coordinator is not available, the case will be provided to the other Title IX Coordinator who will serve as the substitute. Any sanctions and remedies will be included in the Notice of Outcome and will be subject to appeal under this policy.

See Appendix D for the range of sanctions under this policy.

Appeal

A single Appeal Decision-Maker will hear appeals under this policy. The Appeal Decision-Maker may be internal or external.

Both parties have equal rights to an impartial appeal at the following junctures: Upon the dismissal of a formal complaint or any allegations therein.

Upon receiving the Hearing Decision-Maker's written determination regarding responsibility and, when applicable, sanctions and remedies.

Appeals may be submitted on the following bases:

Procedural irregularity that affected the outcome of the matter.

New evidence that was not reasonably available at the time the determination regarding non-responsibility, responsibility or dismissal was made, which could affect the outcome of the matter.

The Title IX Coordinator or their staff, investigator(s), Hearing Decision-Maker, or Sanctioning Authority had a conflict of interest or bias for or against complainants or

respondents generally or the individual complainant or respondent that affected the outcome of the matter.

To appeal, a party must electronically submit a written appeal statement to the Title IX Coordinator within five (5) business days of receipt of the written determination or dismissal. The Appeal Decision-Maker may deem a late submission reasonable only under extenuating circumstances, and the Appeal Decision-Maker may decide in their sole discretion what constitutes valid extenuating circumstances. The appeal shall outline the basis for appeal and the relevant information to substantiate the appeal. The non-appealing party will be provided with a copy of the appealing party's written statement and may submit a written response to the Title IX Coordinator within three (3) business days of receipt of the appealing party's written statement. The non-appealing party's statement will be provided to the appealing party. No further appeal submissions from the parties shall be permitted.

An appeal is limited in scope. The purpose of an appeal is not to initiate a review of substantive issues of fact or a new determination of whether a violation of College rules has occurred.

In deciding an appeal, the Appeal Decision-Maker may consider the case file and any responses, investigative report and any responses, the hearing record, the written determination, and any written appeal(s) or statements by the parties. The Appeal Decision-Maker also may consider any other materials the College deems relevant and that have been shared with the parties.

The parties and their advisors will simultaneously be provided (via electronic format) with the written decision describing the result of the appeal and the rationale for the result.

If the Appeal Decision-Maker finds that the earlier decision should stand, the parties will be so informed and the Title IX process is concluded.

If the Appeal Decision-Maker finds that there was procedural irregularity that affected the outcome of the matter, the matter will be remanded to the Hearing Decision-Maker to determine appropriate further action.

If the Appeal Decision-Maker finds that new evidence is available which was not reasonably available at the time of the determination regarding non-responsibility, responsibility or dismissal, and such evidence could alter the outcome of the matter, the matter will be remanded to the Hearing Decision-Maker for appropriate further action.

If the Appeal Decision-Maker finds that the Title IX Coordinator, Title IX Investigator(s), Hearing Decision-Maker, or Sanctioning Authority had a conflict of interest or bias, for or against both parties or either of the parties that affected the outcome, the Appeal Decision-Maker will take appropriate measures to address and remediate the impact of the bias or conflict consistent with the general procedures of this policy.

The Appeal Decision-Maker will seek to complete the appeal review within ten (10) business days of receipt of the appealing party's written statement.

The Appeal Decision-Maker's determination becomes final on the date that the parties are provided with the written determination or result of an appeal, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Training

The College will provide appropriate training to College officials with responsibilities under this policy, including the Title IX Coordinator, Hearing Decision-Makers, Sanctioning Authorities, Appeal Decision-Makers, and any individual who facilitates the informal resolution process. Such training will cover the definition of Title IX Sexual Harassment, the scope of the College's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes under this policy, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The College will ensure that Hearing Decision-Makers receive training on any technology to be used at a hearing and on issues of relevance of questions and evidence, including questions and evidence about the irrelevancy of complainant's sexual predisposition or prior sexual behavior. The College will ensure that investigators receive training on issues of relevance in order to create an investigative report that fairly summarizes relevant evidence. These training materials are publicly available on the Title IX Compliance website and will be made available for in-person review upon request. In addition, College officials with responsibilities under this policy will receive training related to intersectionality.

Record Retention

The College will maintain for a period of seven years records of the following:

- Each Title IX Sexual Harassment grievance process conducted under this policy, including any determination regarding responsibility and any audio or audiovisual recording or transcript from a hearing, any disciplinary sanction imposed on the respondent, and remedies provided to the complainant designed to restore or preserve access to the College's education program or activity.
- Any appeal and the result therefrom.
- Any informal resolution and the result therefrom.
- All materials used to train Title IX Coordinators, Investigators, Hearing Decision-Makers, Sanctioning Authorities, Appeal Decision-Makers, and any individual who facilitates the informal resolution process with regard to Title IX Sexual Harassment.
- Records of any actions, including any supportive measures, taken in response to a report or formal complaint of Title IX Sexual Harassment. In each instance, the College will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the College's educational and working program or activity. If the College does not provide a complainant with supportive measures, then the College will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Modification and Review of Policy

Prescott College reserves the right to modify this policy to take into account applicable legal requirements or extraordinary circumstances. At regular intervals, the College will review this policy to determine whether modifications should be made.

Definitions

Actual Knowledge means that the Title IX Coordinator / Office or an Official with Authority has received notice of sexual harassment or allegations of sexual harassment.

Advisor refers to a person selected by a party¹ or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination during a hearing (if applicable).

Appeals Decision-Maker refers to the person that reviews Title IX Sexual Harassment requests for appeals; determines approval/denial of the appeal; and if the appeal is approved, makes the final determination as to whether the original determination by the Hearing Decision-Maker stands.²

Preponderance of Evidence Standard of Proof The College uses the preponderance of the evidence (also known as “more likely than not”) as a standard for proof of whether a violation occurred. In campus resolution proceedings, legal terms like “guilt,” “innocence” and “burdens of proof” are not applicable, but the College never assumes a responding party is in violation of College policy. Campus resolution proceedings are conducted to take into account the totality of all evidence available, from all relevant sources.

Clery Act requires that all colleges and universities disclose crimes that have occurred on their campus to the federal government.

Complaint refers to notification to the Title IX Office of sexual harassment.

Complainant refers to the individual alleged to be the victim of conduct that could constitute Title IX Sexual Harassment.

Confidential Resource means an employee/office who is exempt from notifying sexual harassment to the Title IX Office. (Some exceptions may apply if person is a minor or for the physical safety of the person or campus community.)

Consent is an explicitly communicated, reversible mutual agreement in which all parties are capable of making a decision. Consent is informed, voluntary, and actively given. Consent exists when all parties exchange mutually understandable affirmative words or behavior indicating their agreement to participate voluntarily in sexual activity.

Day means a business day when Prescott College is in full operation.

Deliberately indifferent means when the College’s response to Title IX Sexual Harassment is “clearly unreasonable in light of the known circumstances” (34 CFR §106.44(a)).

Education program or activity includes locations, events, or circumstances where Prescott College exercises substantial control over both the Respondent and the context in which the

sexual harassment occurs and includes any building owned or controlled by a student organization that the College officially recognizes.

FERPA (Family Educational Rights and Privacy Act) is a Federal law that protects the privacy of student education records.

Final Determination means the written conclusion using the preponderance of the evidence (also known as “more likely than not”) as a standard for proof of whether a violation occurred.

Finding is a conclusion by the preponderance of evidence standard that the conduct did or did not occur as alleged.

Formal complaint refers to a form or document filed by a complainant, that contains the complainant’s physical or digital signature, alleging Title IX Sexual Harassment against a respondent and requesting that Prescott College investigate the allegations of Title IX Sexual Harassment. The Title IX Coordinator may also sign a formal complaint alleging Title IX Sexual Harassment against the respondent. Where the Title IX Coordinator signs a formal complaint, they are not a complainant or otherwise a party.

Formal Grievance Process is a method of formal resolution designated by the College to address conduct that falls under the scope of Title IX Sexual Harassment.

Grievance means a notification to the College regarding possible allegations under the Title IX Sexual Harassment Policy or the College’s Sexual Misconduct Policy.

Hearing Decision-Maker³ refers to those who have decision-making authority within the College’s Formal Grievance process for Title IX Sexual Harassment cases.

Informal Resolution may encompass a broad range of conflict resolution strategies, including but not limited to, meetings between the parties and Title IX or other designees.

Investigator means the person or persons charged by the College with gathering facts about an alleged violation of this policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.

Notice means that an employee, student, or third party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of Title IX Sexual Harassment.

Officials with Authority (OWA) refers to an employee/office/department of the College who has authority to institute corrective measures related to Title IX Sexual Harassment.⁴

Party or parties refer to the complainant(s) and respondent(s), collectively.

Privacy means that information related to a complaint will be shared with a limited number of employees and individuals who are in a need to know category.

Recipient refers to a postsecondary institution that is a recipient of federal funding (i.e. Prescott College)

Remedial refers to steps taken to address alleged offenses when a complainant may not want to move forward with an investigation or an informal meeting with the respondent, however wants the Title IX Office to converse with the respondent for situational awareness.⁵

Remedies refer to actions made post-determination and designed to restore or preserve equal access to Prescott Colleges education program or activity. Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.

Respondent refers to an individual alleged to be the perpetrator of conduct that could constitute Title IX Sexual Harassment.

Resolution refers to the determination or an agreement of an informal or formal grievance process.

Responsible Employee (mandated reporter) is an employee of the College who may share knowledge, notice, and/or reports of sexual harassment with the permission of the complainant to the Title IX Coordinator.⁶

Sanction refers to a consequence imposed by the Title IX Coordinator based on a finding of responsibility by the Hearing Decision-Maker for formal resolution (with Hearings) or based on the outcome of an informal resolution. The Title IX Coordinator determines appropriate sanctions and in cases involving an employee, makes recommendations to Human Resources.

Sanctioning Authorities refers to the individual(s) who determine the appropriate sanction or remedies. In most circumstances, this will be the Title IX Coordinator.

Sex has no regulatory definition. Anyone may experience sexual harassment, irrespective of gender identity or sexual orientation.

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

Title IX Coordinator refers to an official designated by Prescott College to ensure compliance with Prescott College Title IX and College Policies

¹ See section on advisors for exclusions.

² The Appeals Decision-Maker for Title IX Sexual Harassment cases (Process A) will be the Director of Human Resources or designee.

³ The Hearing Decision-Maker (e.g. who may be an internal or external person)

⁴ The Title IX Office, Dean of Students (or designee), Director of Human Resources, and the Safety & Security Office are the OWA's.

⁵ The Title IX Office may have a conversation with the respondent; recommend counseling,

anger management, or other actions.

⁶ Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility in this Policy.

Reason for Policy

The College has a responsibility to respond properly to sexual harassment so as to provide equal access to its educational programs, regardless of gender.

Responsibilities

For following policy:	All students and employees regardless of their employment classification
For enforcement of policy:	Title IX Coordinator, Deputy Title IX Coordinators
For oversight of policy:	Dean, Student Affairs
For procedures implementing the policy:	Title IX Coordinator, Deputy Title IX Coordinators
For notification:	Policy Librarian

Cross Referenced Policies

Revision History

Title IX Sexual Harassment and Sexual Misconduct Policy specific appendices

Appendix A: The Violence Against Women's Act (VAWA)

(<https://www.federalregister.gov/documents/2014/10/20/2014-24284/violence-against-women-act>)

The Violence Against Women Reauthorization Act of 2013 (VAWA) (Pub. L. 113-4), which, among other provisions, amended section 485(f) of the HEA, otherwise known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The Clery Act requires institutions of higher education to comply with certain Campus Safety and Security related requirements as a condition of their participation in the Title IV, HEA programs. Notably, VAWA amended the Clery Act to require institutions to compile statistics for incidents of dating violence, domestic violence, sexual assault, and stalking and to include certain policies, procedures, and programs pertaining to these incidents in their annual security reports. VAWA §

668.46 of title 34 of the Code of Federal Regulations (CFR) was amended to implement these statutory changes. The entire act is available at ([34 CFR 668.46](#)).

VAWA provides the following requirements:

- Require institutions to maintain statistics about the number of incidents of dating violence, domestic violence, sexual assault, and stalking that meet the definitions of those terms;
- Clarify the very limited circumstances in which an institution may remove reports of crimes that have been “unfounded” and require institutions to report to the Department and disclose in the annual security report the number of “unfounded” crime reports;
- Revise the definition of “rape” to reflect the Federal Bureau of Investigation’s (FBI) updated definition in the UCR Summary Reporting System, which encompasses the categories of rape, sodomy, and sexual assault with an object that are used in the UCR National Incident-Based Reporting System;
- Revise the categories of bias for the purposes of Clery Act hate crime reporting to add gender identity and to separate ethnicity and national origin into separate categories;
- Require institutions to provide to incoming students and new employees and describe in their annual security reports primary prevention and awareness programs. These programs must include: a statement that the institution prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking, as those terms are defined in these final regulations; the definitions of these terms in the applicable jurisdiction; the definition of “consent,” in reference to sexual activity, in the applicable jurisdiction; a description of safe and positive options for bystander intervention; information on risk reduction; and information on the institution's policies and procedures after a sex offense occurs;
- Require institutions to provide, and describe in their annual security reports, ongoing prevention and awareness campaigns for students and employees. These campaigns must include the same information as the institution's primary prevention and awareness program;
- Define the terms “awareness programs,” “bystander intervention,” “ongoing prevention and awareness campaigns,” “primary prevention programs,” and “risk reduction;”

- Require institutions to describe each type of disciplinary proceeding used by the institution; the steps, anticipated timelines, and decision-making process for each type of disciplinary proceeding; how to file a disciplinary complaint; and how the institution determines which type of proceeding to use based on the circumstances of an allegation of dating violence, domestic violence, sexual assault, or stalking;
- Require institutions to list all of the possible sanctions that the institution may impose following the results of any institutional disciplinary proceedings for an allegation of dating violence, domestic violence, sexual assault, or stalking;
- Require institutions to describe the range of protective measures that the institution may offer following an allegation of dating violence, domestic violence, sexual assault, or stalking;
- Require institutions to provide for a prompt, fair, and impartial disciplinary proceeding in which:
 - Officials are appropriately trained and do not have a conflict of interest or bias for or against the accuser or the accused.
 - The accuser and the accused have equal opportunities to have others present, including an advisor of their choice.
 - The accuser and the accused receive simultaneous notification, in writing, of the result of the proceeding and any available appeal procedures if applicable.
 - The proceeding is completed in a reasonably prompt timeframe.
 - The accuser and accused are given timely notice of meetings at which one or the other or both may be present.
 - The accuser, the accused, and appropriate officials are given timely and equal access to information that will be used during informal and formal disciplinary meetings and hearings if applicable.
 - Define the terms “proceeding” and “result”.
- Specify that compliance with these provisions does not constitute a violation of section 444 of the General Education Provisions Act ([20 U.S.C. 1232g](#)), commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA).

Appendix B: Emergency Resources

1. Law Enforcement

Many incidents of sexual misconduct are also violations of the law. Individuals who wish to report a crime to law enforcement officials can contact the local agencies directly by dialing 9-1-1. They can also request assistance contacting the proper agency through the Title IX Coordinator or confidential reporter. *If the Reporting Party is under 18 years of age, the College has an obligation to contact law enforcement.*

2. Medical Assistance

Emergency medical assistance is available both on campus (during business hours) and off campus (24/7). Individuals are encouraged (but not required) to contact law enforcement and seek medical treatment as soon as possible following an incident that poses a threat to safety or physical well-being or following a potential criminal offense. For more information about seeking assistance for a sexual harassment (sexual assault, rape, sodomy, domestic/dating violence, stalking) incident:

Yavapai Family Advocacy
Center (YFAC) Prescott Valley,
AZ 86312

Because YFAC is a safe place for victims, the physical address is not published

Phone: (928) 775-0669

Yavapai Regional Medical
Center East 700 Florentine Rd
Prescott Valley, AZ
86314 Phone: (928)
445-2700

Yavapai Regional Medical
Center West 1003 Willow
Creek Rd
Prescott, AZ 86301
Phone: (928) 445-2700

Appendix C: Informal Resolution Process

The purpose of the informal resolution process is to eliminate the conduct which has been reported by the complainant (and prevent its recurrence), and place both individuals in a position to pursue their academic, working, and non-academic interests in a safe, respectful, and productive educational and working environment.

The informal resolution process is a voluntary, remedies-based process designed to provide members of the Prescott College community with an option to resolve certain disputes with other members of the College community. Subject to approval by the Title IX Coordinator (see below), the Informal Resolution Process is available in matters involving a student complainant and a student respondent as well as in matters involving a faculty/staff complainant and a faculty/staff respondent.

The Informal Resolution Process is not available in matters involving a student and an employee.

Prior to participating in the informal resolution process, parties will be notified in writing of the information contained in this Appendix C.

The following are features of the informal resolution process:

- Participation in the informal resolution process is voluntary.
 - No party will be required to participate in the informal resolution process and the College will not require, encourage, or discourage the parties from participating in the informal resolution process; and
 - All parties must consent in writing to participation in the informal resolution process.
- The College may offer the informal resolution process only under the following circumstances:
 - A report has been filed by the complainant;
 - The Title IX Coordinator has determined, through an initial assessment, that the alleged conduct, if substantiated, would constitute College Sexual Misconduct; and
 - The Title IX Coordinator has determined that the informal resolution process is appropriate for this matter.
- All parties will be provided with a written notice disclosing the allegations, the requirements of the informal resolution process, and any outcomes resulting from participating in the informal resolution process.

- At any time prior to signing an informal resolution agreement, any party has the right to withdraw from the informal resolution process and resume the non-informal resolution process.
- Parties may be accompanied by an individual of their choosing who will serve as an advisor/support person to any meeting related to the informal resolution process. However, the support person may not actively participate in meetings and may not serve as a proxy for the party. Any individual who serves as a support person is expected to make themselves available for meetings as scheduled by the College. The College (including any official acting on behalf of the College) has the right at all times to determine what constitutes appropriate behavior on the part of a support person and to take appropriate steps to ensure compliance with this policy.
- Any agreements reached as part of the informal resolution process must be approved by the Title IX Coordinator.
- If the Title IX Coordinator determines at any time prior to the signing of the informal resolution agreement that the informal resolution process is no longer appropriate, the Title IX Coordinator may terminate the process.
- Upon signing the informal resolution agreement, the parties are bound by its terms and cannot opt for a non-informal grievance process based on the conduct alleged in the report.
- Failure to comply with the signed agreement may result in disciplinary action for either party.
- If the parties' circumstances change significantly, they may request a supplemental agreement.

Retaliation

The protections against Retaliation apply to individuals participating in a resolution process within this policy. Disciplinary consequences may result for those found responsible for Retaliation.

Appendix D: Range of Sanctions under this Policy

Members of the College community may be subject to disciplinary sanctions for violating this policy.

Sanctions Applicable to Students

The sanctions for students are listed below.

- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any Prescott College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling:* A mandate to meet with and engage in either College-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation:* A written reprimand for violation of College policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension:* Termination of student status for a definite period of time not to exceed two

years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their enrollment as a student at Prescott College.

- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend Prescott College-sponsored events.
- *Withholding Diploma*: Prescott College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: Prescott College reserves the right to revoke a degree previously awarded from the College for fraud, misrepresentation, and/or other violation of Prescott College policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including Prescott College registration as a recognized organization) for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, Prescott College may assign any other sanctions as deemed appropriate.

The following may accompany the preceding sanctions, as appropriate:

- **College Housing.** When appropriate to the infraction, particularly in instances involving antisocial behavior having a serious impact on the residential community, removal from College housing or relocation within College housing may be added to any of the other sanctions listed above, except warning and reprimand.
- **Restriction of Access to Space, Resources, and Activities.** When appropriate in cases involving behavioral misconduct between members of the community, restrictions may be placed on access to space and/or resources or on participation in activities so as to limit opportunities for contact among the parties.
- **Educational Refresher Programs.** In addition to any of the sanctions listed above, a student may be required to participate in educational refresher programs appropriate to the infraction.
- **Restitution.** The sanction for willful or reckless damage or vandalism will ordinarily include restitution for replacement or repair.

Sanctions Applicable to Faculty and Staff Members

For violations of this policy by faculty or staff members, disciplinary sanctions may include (in accordance with the employment policies governing the employee in question) counseling or training, written warning, financial penalty, unpaid leave of absence, suspension (or recommendation for suspension), demotion, termination (or recommendation for termination) in accordance with applicable policies. The College may place a faculty or staff member on administrative leave during the pendency of a grievance process, provided that such action shall not modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

Sanctions Applicable to Non-Members of the College Community

For violations of this policy by non-members of the College community, including alumni, disciplinary sanctions may include being temporarily or permanently barred from the College or subject to other restrictions.

Informal Resolution Outcomes

Depending on the nature and circumstances of the particular situation, parties may agree to outcomes such as:

- Mutual No Contact Orders;
- Imposition of a one-party No Contact Order, placing the burden on the respondent to limit the respondent's physical proximity to the complainant;
- Restrictions on the respondent from participation in particular organizations or events;
- Changes to on-campus housing, subject to availability;
- Conversation between the parties facilitated by the Title IX Coordinator or a trained individual appointed by the Title IX Coordinator; and/or
- Other measures deemed appropriate by the Title IX Coordinator.

Failure to Comply with the Informal Resolution Agreement

Failure to comply with the signed agreement may result in disciplinary action for either party, consistent with the disciplinary procedures described in other College policies.