

ARIZONA COLLEGE OF NURSING AND ARIZONA COLLEGE

TITLE IX NON-DISCRIMINATION & ANTI-HARASSMENT POLICY

I. Policy Statement

Arizona College of Nursing and Arizona College (collectively “Arizona College”) are committed to providing a supportive learning and working environment that promotes personal integrity, civility, and mutual respect in an environment free of discrimination on the basis of sex, sex stereotypes, sex characteristics, gender, pregnancy status, or related conditions. Arizona College considers sex and gender discrimination in all its forms to be a serious offense. Sex discrimination constitutes a violation of this policy, is unacceptable, and will not be tolerated.

Sex-based harassment, whether verbal, physical, or visual, which is based on sex is a form of prohibited sex discrimination. Sex-based harassment means harassment and other harassment on the basis of sex, and includes sexual assault, dating violence, domestic violence, and stalking. The specific definition of sex-based harassment, including examples of such conduct, are set forth below.

II. Title IX Statement

Title IX provides that "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Further information about Title IX can be found at <https://www.justice.gov/crt/title-ix-education>.

III. Scope and Application¹

This policy is implemented to ensure compliance with local, state, and federal laws in alignment with existing Arizona College student and employee policies. The scope of this policy extends to all prohibited behaviors conducted by students, volunteers, external community members, employees, third-party contractors, guests, or any other third parties occurring under or in connection with Arizona College’s education program or activity in the United States, whether on or off campus, including but not limited to campus events, travel associated with an education program or activity, or any other Arizona College-sponsored education program or activity.

IV. Notice of Non-Discrimination

Arizona College does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please report to Arizona College’s Title IX Coordinator and follow the procedures outlined in the Grievance Policy.

¹ See Definitions section for a list of relevant definitions that apply to this policy.

Inquiries about Title IX may be referred to Arizona College's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both.

It is the policy of Arizona College that instances of alleged sex discrimination will be addressed in accordance with Title IX of the Education Amendments of 1972 and its implementing regulations as in effect at the time of the alleged conduct. As of the date of this policy's last update, Arizona College applies the Title IX regulations in effect on August 14, 2020 (the "2020 Title IX Regulations"), as modified by applicable federal court orders. Arizona College continuously monitors federal regulatory and judicial developments to ensure policy compliance and will update this policy as necessary to reflect changes in controlling law.

V. Roles and Responsibilities of the Title IX Coordinator

Arizona College has designated the following Title IX Coordinator to coordinate its compliance with Title IX and to receive inquiries regarding Title IX, including complaints of sex discrimination:

Maddie Caballo
Senior Vice President of Student Affairs
mcaballo@arizonacollege.edu
602-759-2230

Anyone wishing to make a report relating to sex discrimination or sex-based harassment may do so by reporting the concern to the school's Title IX Coordinator.

Individuals experiencing harassment or discrimination also have the right to file a formal grievance with the United States Department of Education:

U.S. Department of Education
Office for Civil Rights ("OCR")
Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone – 800-421-3481
Fax – 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov
Web: <https://ocrcas.ed.gov/contact-ocr>

VI. Title IX Coordinator

The Title IX Coordinator oversees compliance with all aspects of this policy. Specifically, the Title IX Coordinator is responsible for coordinating the dissemination of information and education and training programs to: (1) assist members of the Arizona College community in understanding that sex discrimination is prohibited by this policy; (2) ensure that investigators are trained to respond to and investigate complaints of sex discrimination; (3) ensure that faculty, staff, and students are aware of the procedures for reporting and addressing complaints of sex discrimination; and (4) coordinating responses to all complaints involving sex discrimination.

The Title IX Coordinator oversees implementation and enforcement of the Grievance Policy, which includes primary responsibility for coordinating Arizona College's efforts related to the intake,

investigation, resolution, and implementation of complaints and the provision of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy. When notified of conduct that reasonably may constitute sex discrimination, which includes conduct meeting the definition of sex-based harassment within this document, under the Grievance Policy, the Title IX Coordinator must take the following actions:

1. Treat the complainant and respondent equitably;
2. Offer and coordinate supportive measures;
3. Offer an informal resolution process if available and appropriate;
4. Initiate the Formal Grievance Process in response to a complaint;
5. Make a fact-based determination on whether to initiate a complaint of sex discrimination in situations where no complaint is filed or the complaint is withdrawn when there may be a risk of ongoing safety concerns if not addressed by Arizona College; and,
6. Regardless of whether a complaint is initiated, take other appropriate, prompt, and effective steps to ensure that sex discrimination does not continue or recur within the Arizona College's education program or activity.

VII. Deputy Title IX Coordinator

The Deputy Title IX Coordinator(s) are responsible for managing the day-to-day tasks associated with the operations of this policy at their respective locations. The Deputy Title IX Coordinators participate in collaborative and coordinated efforts with the Title IX Coordinator in monitoring, grievance processes, training, outreach, and information reporting. Deputy Title IX Coordinators may also serve as investigators and/or facilitators, as described elsewhere in this policy, and will fulfill those duties at the direction and under the guidance of the College-wide designated Title IX Coordinator. The Title IX Coordinator has designated the Deputy Title IX Coordinators listed in Appendix A to receive inquiries regarding Title IX, including reports or complaints of alleged sex discrimination.

VIII. Others' Responsibilities Under This Policy

If an employee of Arizona College receives any oral or written reports, witnesses, or otherwise learns of conduct that reasonably may constitute sex discrimination, the employee must (i) promptly notify the Title IX Coordinator [or appropriate deputy Title IX Coordinator], or (ii) provide the person experiencing the conduct or providing such information the contact information of the Title IX Coordinator.

It is the responsibility of those employees who formally supervise faculty, staff or employees to:

1. Inform employees under their direction or supervision of this policy;
2. Implement any corrective actions that are imposed as a result of findings of a violation of this policy.

Certain Arizona College employees have an obligation to report to the Title IX Coordinator when they have information about conduct that reasonably may constitute sex discrimination. These include employees in Arizona College or campus leadership positions, faculty members and staff who serve as student advisors.

It is the responsibility of all employees to review this policy and comply with it.

It is the responsibility of all students to review this policy and comply with it.

When Arizona College is aware that a member of the Arizona College community may have been subjected to or affected by conduct that reasonably may violate this policy, Arizona College will take prompt action, including a review of the matter and, if necessary, an investigation and appropriate steps to stop and remedy the suspected sex discrimination. In doing so, Arizona College will act in accordance with its Grievance Policy.

IX. Record Keeping

Arizona College shall create, and maintain for seven (7) years, records of any actions (including any supportive measures) taken in response to a report or complaint of sex discrimination. Arizona College records shall include:

- For each report the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX, records documenting the actions the Arizona College took to meet its obligations under Title IX and this policy;
- For each complaint of sex discrimination, records including any determination regarding responsibility and any audio or audiovisual recording or transcript, any disciplinary sanctions imposed on the respondent, and any supportive measures provided to the complainant;
- Any appeal and the result therefrom;
- Any informal resolution; and
- All materials used to train Title IX Coordinators, investigators, decisionmakers, and any person who facilitates an informal resolution process.
- For each response required under Arizona College's specific grievance procedures for allegations of sexual harassment, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.

X. Training

Arizona College will ensure that relevant personnel receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX and this policy. Arizona College may make such training available to other employees. Title IX Coordinator (and any deputy or designee), as well as other employees and/or individuals who also serve as investigators, decisionmakers, and have direct responsibility for implementing the Arizona College Grievance Policy or who can modify or terminate supportive measures, must receive training:

- On the definition of sex discrimination and sexual harassment (as outlined within this policy) within the scope of Arizona College's education program or activity;
- How to conduct an investigation;
- Arizona College's grievance process, including hearings, appeals, and informal resolution processes, as applicable,
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
- On any technology to be used at a live hearing;

- On issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.
- On issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

XI. Anti-Retaliation Policy

Arizona College prohibits retaliation, including peer retaliation, in its education program or activity. Retaliation under this policy includes intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX or its applicable regulations, or because the individual made a report or complaint, testified, assisted, or participated in or refused to participate in any manner in an investigation, proceeding, or hearing afforded by any process outlined in this policy. Any retaliation complaints should be reported to the Title IX Coordinator or the Campus Deputy Title IX Coordinator.

Examples of retaliation may include:

1. Threats of reprisals;
2. Actions/behavior directed at the person outside of the norm occurring after a report is filed;
3. Changes in job duties, job location, or work schedules;
4. Unreasonable changes in academic expectations;
5. Withholding scholarships, salary, or other sources of income;
6. Altering grades or scoring rubrics after a report is filed;
7. Denial of a tool or training that will assist in the ability to perform a job or achieve academic success;
8. Unwarranted verbal or written reprimands.

Exercising rights protected under the First Amendment does not constitute retaliation. Likewise, taking disciplinary action against an individual for making a materially false statement in bad faith during an investigation does not constitute retaliation. However, on its own, a determination that sex discrimination did not occur is insufficient to conclude that any party made a materially false statement in bad faith. Concerns about retaliation should be addressed by contacting the Title IX Coordinator.

XII. Emergency Removal and Administrative Leave

Nothing in this policy and procedure precludes Arizona College from removing a respondent from the College's education program or activity on an emergency basis, once it undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and respondent is given notice and an opportunity to challenge the decision immediately following the removal. Also, nothing in this policy and procedure precludes Arizona College from placing a non-student employee respondent on administrative leave during the pendency of the grievance process.

XIII. Supportive Measures

Arizona College will offer and coordinate reasonable supportive measures as appropriate and without fee or charge for the complainant and/or respondent to restore or preserve that person's access to Arizona College's education program or activity, or to provide support during Arizona College's formal or informal resolution process to minimize disruption to that party's participation in an education program or activity. Supportive measures are available to a complainant regardless of whether they wish to pursue any formal or informal resolution process outlined in this policy. Supportive measures implemented by Arizona College will not impose an unreasonable burden on either party, and they will not be imposed for punitive or disciplinary reasons. Arizona College will engage in a fact-specific inquiry to determine whether supportive measures constitute an unreasonable burden on a party.

Arizona College will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure, restore or preserve a party's access to the education program or activity, or one of the exceptions to the disclosure of personally identifiable information in Section IV of the Grievance Policy applies. The Title IX Coordinator may consult with the Arizona College employee charged with ADA compliance responsibilities if complainant or respondent has a disability.

Supportive measures may include:

1. Counseling;
2. Reasonable academic accommodations (e.g., extending deadlines or other course-related adjustments);
3. Campus escort services;
4. Increased security and monitoring of certain areas of the campus;
5. Ordering the complainant and respondent to have no-contact directives and enforcing mutual restrictions on contact with each other and/or other third parties;
6. Leaves of absence;
7. Modifying class schedules, extracurricular activities, or working arrangements;
8. Providing training and education programs related to sex-based harassment.
9. Any other measure which can be tailored to the involved individuals to achieve the purposes and goals of this policy.

Arizona College may modify or terminate previously approved supportive measures based on the changed circumstances of the parties and/or the procedures invoked by this policy. Such modifications or terminations may be requested by the party they apply to or made at the recommendation of the Title IX Coordinator.

A complainant or respondent may appeal any decision to provide, deny, modify, or terminate supportive measures applicable to them within five (5) business days of the decision being made. Appeals must be submitted in writing to Arizona College's Title IX Coordinator and must include a statement as to why the implementation, denial, modification, or termination of the supportive measures fails to restore the requesting party's access to Arizona College's education program or activity. A complainant or respondent's appeal will be reviewed by a neutral employee of Arizona

College designated by the Title IX Coordinator who has authority to modify or reverse decisions regarding supportive measures.

Arizona College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of Arizona College to provide the supportive measures. Arizona College's Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

For each response required under Arizona College's specific grievance procedures for allegations of sex-based harassment, Arizona College must create and maintain for seven (7) years records of any actions, including any supportive measures, taken in response to a report or formal complaint of sex-based harassment. In these instances, Arizona College must document the basis for its conclusion that its response was not deliberately indifferent, and it has taken measures designed to restore or preserve equal access to Arizona College's education program or activity. In the event that Arizona College decides not to provide a complainant with supporting measures, then the College must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

XIV. Confidentiality Under Title IX

Arizona College will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising under it.

XV. Confidentiality Under Clery

(Applies to allegations of sexual assault, dating violence, domestic violence and stalking, and is relevant to this policy to the extent there is a Clery crime that comes under the scope of Title IX.)

The College will protect a Clery crime victim's confidentiality, even if the victim does not specifically request confidentiality, where possible and in the following ways:

The victim's personally identifying information will not be included in any publicly available record, including Clery Act reporting and disclosures such as the annual security report. Personally identifying information is defined in Section 40002(a) of the Violence Against Women Act of 1994 as individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault or stalking, regardless of whether the information is encoded, encrypted, hashed or otherwise protected, including a first and last name; a home or other physical address; contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number); a social security number, driver's license number, passport number or student identification number; and any other information, including date of birth, racial or ethnic background, or religious affiliation that would serve to identify any individual.

In some cases, the College may need to disclose some information about a victim to a third party to provide necessary accommodations or protective/supportive measures. The College will inform victims before sharing personally identifying information that the institution believes is necessary to provide an accommodation or protective/supportive measure and will tell the victim what information will be shared, with whom it will be shared and why. The College's Title IX Coordinator will determine what information about a victim should be disclosed, to whom this information will be disclosed, and will use only official College systems to transmit the information necessary to provide the accommodation or protective/supportive measure.

XVI. Definitions

“Complainant” means:

1. A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part;
2. A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part and who was participating or attempting to participate in the Arizona College's education program or activity at the time of the alleged sex discrimination; or
3. An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

“Education program or activity” includes locations, events, or circumstances over which Arizona College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.

“Party” means a complainant or respondent.

“Peer retaliation” means retaliation by a student against another student.

“Pregnancy or related conditions” means:

1. Pregnancy, childbirth, termination of pregnancy, or lactation;
2. Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
3. Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

“Respondent” means a person who is alleged to have violated this policy.

“Retaliation” means intimidation, threats, coercion, or discrimination against any person by Arizona College, a student, or an employee or other person authorized by Arizona College to provide aid, benefit, or service under Arizona College's programs or activities, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

“**Sexual harassment**” (or sex-based harassment) means conduct on the basis of sex that satisfies one or more of the following:

1. *An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;*
2. *Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or*
3. "Sexual assault" as defined in [20 U.S.C. 1092\(f\)\(6\)\(A\)\(v\)](#) [Sexual assault or criminal sexual conduct meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation], "dating violence" as defined in [34 U.S.C. 12291\(a\)\(10\)](#), "domestic violence" as defined in [34 U.S.C. 12291\(a\)\(8\)](#), or "stalking" as defined in [34 U.S.C. 12291\(a\)\(30\)](#).

"Student" means a person who has gained admission to Arizona College and is aligned with the definition under FERPA (20 U.S.C. § 1232g).

"Student with a disability" means a student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B).

"Supportive measures" means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

1. Restore or preserve that party's access to Arizona College's education program or activity, including measures that are designed to protect the safety of the parties or Arizona College's educational environment; or
 2. Provide support during Arizona College's grievance procedures or during an informal resolution process.
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ARIZONA COLLEGE OF NURSING AND ARIZONA COLLEGE

TITLE IX GRIEVANCE POLICY

I. Scope and Application

Arizona College is committed to providing a work environment, education programs, and activities free of unlawful harassment and discrimination, and will provide a prompt, fair, and impartial process to address complaints of alleged sex discrimination (which include complaints of alleged sexual or sex-based harassment).

Arizona College has implemented this policy to ensure compliance with applicable local, state, and federal non-discrimination laws in alignment with Arizona College's existing student and employee policies.

The scope of this policy extends to all prohibited behaviors conducted by students, volunteers, external community members, employees, third-party contractors, guests, or anyone doing business with Arizona College on or off campus, including but not limited to campus events, travel, or any other Arizona College-sponsored event, provided such conduct occurs in connection with Arizona College's education program or activity in the United States.

Arizona College will respond promptly and effectively if it acquires knowledge – either through a report or complaint received – of conduct that reasonably may constitute sex discrimination in its education program or activity and shall not act in a way that is deliberately indifferent.

II. Definitions

“Sex Discrimination” includes, but is not limited to:

1. Discrimination based on:
 - a. Pregnancy or related conditions;
 - b. Sex stereotypes or characteristics; or
 - c. Sex in connection with parental, family, or marital status
2. Conduct that, on the basis of sex, excludes a person from participation in, denies a person the benefits of, treats a person differently, or otherwise adversely affects a person's access to, participation in, or benefits under any an education program or activity, and subjects them to more than de minimis harm.

For the purposes of this policy, "Sex discrimination" includes "sexual harassment" and, except where specifically noted or called out as only applying to allegations of sexual harassment, usage of "sex discrimination," and provisions thereby pertaining, includes and applies to sexual harassment as well.

“Sexual harassment” (or sex-based harassment) means conduct on the basis of sex that satisfies one or more of the following:

4. *An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;*

5. *Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or*
6. "Sexual assault" as defined in [20 U.S.C. 1092\(f\)\(6\)\(A\)\(v\)](#) [*Sexual assault or criminal sexual conduct* meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation], "dating violence" as defined in [34 U.S.C. 12291\(a\)\(10\)](#), "domestic violence" as defined in [34 U.S.C. 12291\(a\)\(8\)](#), or "stalking" as defined in [34 U.S.C. 12291\(a\)\(30\)](#).

For all other relevant definitions, please refer to the Definitions section within the College's Title IX Non-Discrimination and Anti-Retaliation Policy.

III. Reports and Complaints

- A. Receiving or Initiating a Report or Complaint.** Any person, regardless of whether the reporting person is the alleged victim of the conduct, can make a report to Arizona College regarding conduct that reasonably may constitute sex discrimination in its education program or activity.

These reports can be made directly to the Title IX Coordinator via phone call, in person communication, by mail, or by email, using the contact information below:

Maddie Caballo
Senior Vice President of Student Affairs
mcaballo@arizonacollege.edu
602-759-2230

Reports can also be made to or designee(s)/Deputy Title IX Coordinator(s), or to certain Arizona College employees (including individuals in College or campus leadership positions, faculty members, and staff who serve as student advisors) who have an obligation to report to the Title IX Coordinator when they have information about conduct that reasonably may constitute sex discrimination. If reports are made to a Title IX Coordinator designee or other employee with reporting obligations, those reports will be forwarded to the Title IX Coordinator who will review and follow-up as appropriate.

Under this policy, the Title IX Coordinator will address any oral or written statement that the Title IX Coordinator objectively understands to request that Arizona College investigate and respond to alleged sex discrimination.

The Title IX Coordinator has no obligation to act where the Title IX Coordinator reasonably determines that the conduct as alleged does not constitute sex discrimination, notwithstanding other Arizona College policies related to formal complaints related to allegations of sexual harassment.

- B. Anonymity.** If a complainant or other reporter makes a complaint or report anonymously, it will be investigated by Arizona College to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures can be provided. Anonymous reports typically limit Arizona College's ability to investigate and respond, depending on what

information is shared. In some situations, the Title IX Coordinator may proceed with the issuance of a complaint even when the complainant's report has been made

C. Limitations on Reporting Obligations. Employees are not obligated to report incidents of discrimination or harassment that they have personally been the target of, and student-employees are only obligated to report information they learn within the context of their employment. If an employee has a question about whether to report conduct, they should consult the Title IX Coordinator.

D. Timeframe. Arizona College strongly encourages individuals to report incidents that may be violations of this policy as soon as possible to maximize Arizona College's ability to respond promptly and equitably. Although there is no time limitation, the timing of when an alleged incident is reported may affect Arizona College's ability to investigate and respond to the report.

E. Documenting the Complaint; Initial Outreach and Review. If the Title IX Coordinator receives information about conduct that reasonably may constitute sex discrimination (either through a directly-filed complaint or other report) the Title IX Coordinator must open an initial documentation/file on the report. The Title IX Coordinator must then perform an initial review to determine whether the report merits further investigation, and must document that determination with supporting analysis.

The Title IX Coordinator will conduct an initial outreach to the complainant to offer supportive measures and the ability to schedule a meeting to discuss their report and explore options and related processes.

If a complainant fails to respond to outreach from the Title IX Coordinator or informs the Title IX Coordinator that they are not interested in pursuing further action, the case will be marked as resolved and the complainant notified of their right to reopen the case at any point in the future.

However, If a report or complaint contains information suggesting there may be an ongoing safety or health concerns if not addressed by Arizona College, or the alleged conduct prevents Arizona College from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator will undertake a fact-based assessment to determine whether to initiate a formal resolution process, even if a complainant declines to respond or only wishes to have their concerns documented. The Title IX Coordinator, in consultation with legal counsel, may refer the concern to be reviewed under a separate process under the Student Code of Conduct or internal HR policies.

If the complainant is responsive and wishes to continue with a review of the report, the following steps will be taken:

- 1. Initial Conversation with Complainant.** If the complainant meets with the Title IX Coordinator, the initial conversation will be documented by the Title IX Coordinator and will be maintained within the official records of the Title IX Office.
- 2. Applicability Assessment.** After receiving additional information, the Title IX Coordinator, in consultation with Arizona College legal counsel, will review the

complainant's allegations and description of the conduct in question to determine whether it meets the definition of either sex discrimination, as provided in this Policy, or sexual harassment, as provided in this Policy and 34 CFR 106.3(a).

- a. If the Title IX Coordinator and legal counsel determine that the alleged conduct, on the face of the complaint, if proven, would not constitute sex discrimination under this policy, the complaint will be dismissed. More information on the dismissal process can be found in section VII below. Such determination will be documented in the file.
 - b. If the Title IX Coordinator and legal counsel determine that the alleged conduct, on the face of the complaint, if proven, could constitute sex harassment under this policy, the Title IX Coordinator must determine whether there is a basis for filing a Formal Complaint on his or her own accord, or whether the complainant wishes to make a formal complaint. If either is true, **any further review or action should proceed under the College's Grievance Policy Related to Complaints of Sex-Based Harassment**. Such determination will be documented in the file.
 - c. If the Title IX Coordinator and legal counsel determine that the alleged conduct, on the face of the complaint, if proven, **could constitute sex discrimination under this policy, the Title IX Coordinator will move to step 3 or 4, as applicable**. Such determination will be documented in the file.
3. Informal Process/Documentation of Concerns. If the complainant wishes to resolve the complaint/report through informal means and documentation of concerns only, the process can continue as described in **section VI below covering the Informal Resolution Process**.

If the complaint/report is resolved on that documentation only, the complainant may at a future date choose to request modifications to any supportive measures received or to move forward with either a formal or informal resolution process.

4. Formal Complaint Initiated. If the complainant wishes to file a formal complaint, or the Title IX Coordinator decides to initiate on their own, **the Formal Grievance Process described in section VIII below** will commence (unless the Title IX Coordinator has otherwise made the decision to dismiss the complaint, pursuant to section VII below). If the Title IX Coordinator decides to initiate a complaint, the Title IX Coordinator will notify the complainant prior to doing so and will address the complainant's reasonable concerns about the complainant's safety or the safety of others.

IV. Informal Resolution

- A. **Discretion and Limitations**. Arizona College has sole discretion to offer an informal resolution process to the parties and will consider each complaint on a case-by-case basis. The informal resolution process may not be appropriate when, among other reasons,

Arizona College determines that the alleged conduct would present a future risk of harm to others.

Arizona College cannot require parties to participate in an informal resolution process, or require a party waive the right to an investigation and determination of a complaint as a condition of enrollment or employment.

Arizona College does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

B. Informal Resolution Process. At any time, Arizona College may offer to complainant and respondent, as appropriate, an informal resolution process.

The process may include the following steps:

1. Consult with the Complainant. The Title IX Coordinator will discuss the complainant's concerns, desired outcome, and available options for addressing the reported conduct.
2. Consider Supportive Measures. In some circumstances, supportive measures, as described elsewhere in this Policy, may adequately address the complainant's concerns and serve as an appropriate resolution without further action.
3. Identify Other Appropriate Resolution Measures. Where additional action may be appropriate, the Title IX Coordinator will consider available informal measures based on the circumstances, the interests of the parties, and the College's responsibility to maintain an educational environment free from sex discrimination.
4. Notify the Respondent and Campus Leadership, as Appropriate. If a proposed resolution would affect the respondent's participation in an Arizona College education program or activity, the Title IX Coordinator will notify the respondent. If appropriate, the Title IX Coordinator will consult with respondent, and, as necessary, relevant campus or College leadership to understand the impact of proposed resolution.
5. Document the Resolution. The Title IX Coordinator will document the resolution and any measures to be implemented and will communicate the outcome to the parties to the extent appropriate.

As required, the Title IX Coordinator must also to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the recipient's education program or activity.

V. Dismissal of Complaints.

A. Basis for Dismissal. Arizona College may dismiss a complaint of sex discrimination where:

1. It is unable to identify the respondent after taking reasonable steps to do so;
2. If specific circumstances prevent Arizona College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
3. Depending on the facts of the situation, either the complainant or the respondent is not participating in Arizona College's education program or activity and is not employed by Arizona College;
4. Complainant voluntarily withdraws any or all of the allegations in the complaint and the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX or this policy even if proven; or

5. Arizona College determines after reasonable efforts to clarify the allegations with the complainant that the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under this policy.

B. Follow-Up Actions. The Title IX Coordinator will offer complainant supportive measures as appropriate. Respondent may be offered supportive measures, if appropriate.

Upon dismissal, Arizona College will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, Arizona College will notify both complainant and respondent, simultaneously and in writing.

Arizona College will notify complainant and respondent (if applicable) that complainant may appeal the dismissal of the complaint.

VI. Formal Grievance Process

A. Timeframe. The Formal Grievance Process outlined in this policy will conclude within ninety (90) calendar days from the filing of a complaint in most instances. Arizona College breaks, holidays, a party's need for disability-related accommodations, concurrent law enforcement activities, and/or unforeseen circumstances may impact this timeline. If the process must be delayed or extended, the Title IX Coordinator will provide the complainant and respondent with written notice of the delay, reason for the delay, and the revised timeline. The Title IX Coordinator will also allow a reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay and the anticipated duration of the extension.

B. Treatment of Parties Participating in the Formal Grievance Process. Arizona College will:

1. Promptly investigate and respond to complaints of sex discrimination, including establishing reasonably prompt timeframes and allowing for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay;
2. Ensure that any person designated Title IX Coordinator, investigator, or decisionmaker is impartial and free of conflict of interest or bias;
3. Not consider an individual's status as a respondent as a negative factor. The respondent shall be afforded the presumption that the respondent is not responsible for the alleged sex discrimination until so found through this Formal Grievance Process;
4. Take reasonable steps to protect the privacy of the parties and witnesses during this Formal Grievance Process;
5. Gather evidence and decide what is relevant or impermissible;
6. Objectively analyze and evaluate only relevant evidence;
7. Not make credibility determinations based on a person's status as a complainant, respondent, or witness;
8. Follow this Formal Grievance Process before the imposition of any disciplinary sanctions;

9. Provide remedies (other than supportive measures) to a complainant only if this Formal Grievance Process results in a determination that the respondent is responsible for sex discrimination;
10. Make reasoned decisions based on the preponderance of the evidence; and
11. Offer Supportive Measures.

C. Notice of Allegations. Upon receiving a written and signed complaint, which has been determined to be able to move forward, the Title IX Coordinator will provide written notice of the allegations to complainant and respondent. The written notice will include:

- a. Description of this Grievance Process, including the informal resolution process;
- b. Sufficient information, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination under this policy, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available and can be disclosed;
- c. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence; and,
- d. That retaliation is prohibited.

If the investigation uncovers new issues outside of the scope of the written notice, Arizona College will provide a supplemental written notice describing the additional allegations under investigation.

D. Consolidation of Complaints. Arizona College may consolidate complaints of sex discrimination when the allegations of sex discrimination arise out of the same facts or circumstances.

Consolidation decisions will be made by the Title IX Coordinator based on considerations of efficiency, fairness to the parties, and the relatedness of the allegations. The Title IX Coordinator will notify all parties in writing when complaints are consolidated.

E. Investigation of Complaints. The Title IX Coordinator will assign a trained investigator/decisionmaker to investigate the complaint. The Title IX Coordinator or Deputy Title IX Coordinator may be assigned as the investigator in the formal resolution process.

Under this process, Arizona College will ensure an adequate, reliable, and impartial investigation of complaints. Arizona College will:

1. Conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred;
2. Provide an equal opportunity for the parties to present for interview and/or review by the investigator any fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible;
3. Review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance;
4. Provide each party with an equal opportunity to review the evidence (or an accurate description of this evidence) and provide each party with a reasonable opportunity to respond to such evidence;

5. Take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through this Formal Grievance Process.

F. Assessing Credibility. The investigator/decisionmaker will question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. Credibility assessments must be individualized and may not rely on generalizations, stereotypes, or assumptions about how persons of a particular sex, gender identity, sexual orientation, race, ethnicity, or other characteristic would or should act.

G. Determination of Whether Sex Discrimination Occurred. Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the investigator/decisionmaker, in consultation with and under the guidance of legal counsel, will use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. "Preponderance of the evidence" means that the evidence indicates that there is a greater than 50% - more likely than not – that sex discrimination occurred.

If the decisionmaker is not persuaded by a preponderance of the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker must conclude that no sex discrimination occurred.

Upon a determination that sex discrimination occurred, the Title IX Coordinator will (i) coordinate the provision and implementation of remedies to a complainant and other persons whose equal access to Arizona College's education program or activity was limited or denied by sex discrimination; (ii) at the conclusion of this Formal Grievance Process coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and (iii) take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Arizona College's education program or activity.

The decisionmaker will provide the parties with a written determination that includes the rationale for the decisionmaker's determination. In the written determination, the decisionmaker will inform the parties of the procedures and permissible bases for appeal, if applicable.

Arizona College will not discipline a party, witness, or others participating this Formal Grievance Process for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

H. Appeal. Either party has the right to file an appeal of determination by the decisionmaker of either the respondent's responsibility and/or the dismissal of a formal complaint or any allegations therein.

1. Scope. Appeals are not a re-hearing of the facts of the case and must be limited in scope on the following basis:

- a. The party has discovered new and relevant evidence that was not reasonably available at the time the determination was made that could alter the outcome.
 - b. Allegations that the decisionmaker deviated from the policy or procedure in a way that changed the outcome of the case.
 - c. Evidence that the Title IX Coordinator, investigator or decisionmaker was biased or had a conflict of interest, and such bias or conflict of interest changed the outcome of the case.
2. Initial Process. An appeal request must be made in writing to the Title IX Coordinator within ten (10) calendar days of the delivery of the written determination. The appeal request must include the basis for the appeal and all evidence in support of the request.

If an appeal is filed, Arizona College will notify the parties of the appeal and provide each with a copy of the appeal.

The non-appealing party may choose to respond and, if he or she does so, must respond within ten (10) calendar days.

Any discipline imposed will be suspended pending the outcome of the appeal. Sanctions will take effect upon the expiration of the deadline for an appeal or the conclusion of the appeal.

The Title IX Coordinator will assign a trained and impartial decisionmaker who was not previously involved in the Formal Grievance Procedure to hear the appeal.

3. Review. The appellate decisionmaker may, after reviewing the appeal, deny the appeal without further process if the appeal is groundless – i.e., the appeal is not based on the grounds specified above. In this case, both parties will be notified of the decision, and the party who did not submit the appeal will be provided a copy of the appeal, but they will not need to provide any response.
4. Decision. The appellate decisionmaker will review the appeal materials submitted by both parties. The appellate decisionmaker may also choose to interview the investigator(s) and/or any other person that participated in the investigation and decision-making process but is not obligated to do so.

The appellate decisionmaker will make a final decision on the appeal within thirty (30) days of the filing of the appeal. The original decision may be upheld, reversed, or modified (which includes the possibility that different or additional sanctions may be imposed).

Modification of sanctions can only place a greater burden on the respondent if the appeal was filed by the complainant. The appellate decisionmaker may also refer the matter to the same or different investigator(s) for additional investigation and a new decision-making process.

The Title IX Coordinator will send a written notice to both parties of the decision on appeal. Notice will describe the result of the appeal and the rationale for the result. No further appeal process is available.

VII. Prohibition on Knowingly Making False Statements

Arizona College is committed to creating a safe environment where reporting of conduct that reasonably may constitute sex discrimination is encouraged.

Arizona College expects individuals to provide truthful information in any report, interview, meeting or proceeding under this policy.

Arizona College requires an individual to act in good faith when reporting acts that reasonably may violate this policy or when serving as a witness in a Formal Grievance Process.

Providing or submitting false or misleading information in bad faith is prohibited and such conduct may be disciplined under the relevant Arizona College policies and procedures. Reports made or information provided in good faith, even if the facts are later unsubstantiated, will not be subject to disciplinary consequences. A determination that sex discrimination did not occur is not, by itself, evidence that any party submitted false or misleading information in bad faith.

VIII. Privacy of the Grievance Process

The Formal Grievance Process will remain private to the extent permissible by law. Arizona College cannot guarantee privacy in all situations and will balance privacy and other competing interests on a case-by-case basis. Formal Grievance Process records may be produced subject to a lawful subpoena.

Parties and witnesses shall not disseminate or otherwise disclose information or evidence obtained solely through their participation in a Formal Grievance Process. Arizona College will address any violations under its code of conduct.

Arizona College will not disclose personally identifiable information it has obtained in its enforcement of this policy except where (i) Arizona College has obtained prior written consent from an individual with a legal right to consent to disclosure; (ii) the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue; (iii) necessary to carry out the purposes of this policy, including action taken to address conduct that reasonably may constitute sex discrimination in Arizona College's education program or activity; (iv) as required by federal law or regulation; or, (v) to the extent such disclosures are not otherwise in conflict with Title IX, when required by state or local law or when permitted under FERPA.

GRIEVANCE POLICY RELATED TO COMPLAINTS OF SEXUAL OR SEX-BASED HARASSMENT INVOLVING A STUDENT COMPLAINANT OR STUDENT RESPONDENT

I. Scope and Application

Arizona College has implemented this policy to ensure compliance with applicable local, state, and federal non-discrimination laws in alignment with Arizona College's existing student and employee policies.

Arizona College is committed to providing a work environment, education programs, and activities free of unlawful harassment and discrimination, and will provide a prompt, fair, and impartial process to address complaints of alleged sex discrimination (which include complaints of alleged sex-based harassment).

The provisions of this Grievance Policy and this section shall apply to complaints of sex-based harassment involving prohibited conduct by students, employees, volunteers, third-party contractors, guests, external community members, and others doing business with Arizona College, whether the conduct occurs on or off campus, provided it occurs in connection with Arizona College's education program or activity in the United States. This includes, but is not limited to, conduct occurring at campus events, during College-related travel, or at other Arizona College-sponsored activities.

This policy includes a presumption that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of the applicable grievance procedure.

II. Definitions

"Sexual harassment" (or sex-based harassment) means conduct on the basis of sex that satisfies one or more of the following:

1. *An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;*
2. *Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or*
3. "Sexual assault" as defined in [20 U.S.C. 1092\(f\)\(6\)\(A\)\(v\)](#) [Sexual assault or criminal sexual conduct meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation], "dating violence" as defined in [34 U.S.C. 12291\(a\)\(10\)](#), "domestic violence" as defined in [34 U.S.C. 12291\(a\)\(8\)](#), or "stalking" as defined in [34 U.S.C. 12291\(a\)\(30\)](#).

For all other relevant definitions, please refer to the Definitions section within the College's Title IX Non-Discrimination and Anti-Retaliation Policy.

III. Presumptions and Equitable Treatment

This policy includes a presumption that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of the applicable grievance procedure.

Arizona College's administration of this Policy must treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility has been made against the respondent, and by following a grievance process against a respondent that complies with Title IX and its effectuating regulations.

Remedies instituted under this Policy must be designed to restore or preserve equal access to Arizona College's education program or activity without unreasonably burdening the other party.

IV. Reports and Complaints

- A. Receiving or Initiating a Report or Complaint.** Any person, regardless of whether the reporting person is the alleged victim of the conduct, can make a report to Arizona College regarding conduct that reasonably may constitute sexual or sex-based harassment in its education program or activity.

These reports can be made directly to the Title IX Coordinator via phone call, in person communication, by mail, or by email, using the contact information below:

Maddie Caballo
Senior Vice President of Student Affairs
mcaballo@arizonacollege.edu
602-759-2230

Reports can also be made to or designee(s)/Deputy Title IX Coordinator(s), or to certain Arizona College employees (including individuals in College or campus leadership positions, faculty members, and staff who serve as student advisors) who have an obligation to report to the Title IX Coordinator when they have information about conduct that reasonably may constitute sex-based harassment. If reports are made to a Title IX Coordinator designee or other employee with reporting obligations, those reports will be forwarded to the Title IX Coordinator who will review and follow-up as appropriate.

Under this policy, the Title IX Coordinator will address any oral or written statement that the Title IX Coordinator objectively understands to request that Arizona College investigate and respond to alleged sexual harassment.

The Title IX Coordinator has no obligation to act where the Title IX Coordinator reasonably determines that the conduct as alleged does not constitute sexual harassment, notwithstanding the requirement to respond promptly in a manner that is not deliberately indifferent.

- B. Anonymity.** If a complainant or other reporter makes a complaint or report anonymously, it will be investigated by Arizona College to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures can be provided. Anonymous reports

typically limit Arizona College's ability to investigate and respond, depending on what information is shared. In some situations, the Title IX Coordinator may proceed with the issuance of a complaint even when the complainant's report has been made

C. Limitations on Reporting Obligations. Employees are not obligated to report incidents of discrimination or harassment that they have personally been the target of, and student-employees are only obligated to report information they learn within the context of their employment. If an employee has a question about whether to report conduct, they should consult the Title IX Coordinator.

D. Timeframe. Arizona College strongly encourages individuals to report incidents that may be violations of this policy as soon as possible to maximize Arizona College's ability to respond promptly and equitably. Although there is no time limitation, the timing of when an alleged incident is reported may affect Arizona College's ability to investigate and respond to the report.

F. Documenting the Complaint; Initial Outreach and Review. If the Title IX Coordinator receives information about conduct that reasonably may constitute sex-based harassment the Title IX Coordinator must open an initial documentation/file on the report. The Title IX Coordinator must then perform an initial review to determine whether the report merits further investigation, and must document that determination with supporting analysis.

The Title IX Coordinator will conduct an initial outreach to the complainant to offer supportive measures and the ability to schedule a meeting to discuss their report and explore options and related processes.

If a complainant fails to respond to outreach from the Title IX Coordinator within fourteen (14) calendar days or informs the Title IX Coordinator that they are not interested in pursuing further action, the case will be marked as resolved and the complainant notified of their right to reopen the case at any point in the future.

However, If a report or complaint contains information suggesting there may be an ongoing safety or health concerns if not addressed by Arizona College, or the alleged conduct prevents Arizona College from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator will undertake a fact-based assessment to determine whether to initiate a formal resolution process even if a complainant only wishes to have their concerns documented.

If the complainant is responsive, the following steps will be taken:

1. Initial Conversation with Complainant. If the complainant meets with the Title IX Coordinator, the initial conversation will be documented by the Title IX Coordinator and will be maintained within the official records of the Title IX Office.
2. Applicability Assessment. After receiving additional information, the Title IX Coordinator, in consultation with Arizona College legal counsel, will review the complainant's allegations and description of the conduct in question to determine whether it meets the definition of sexual harassment, as provided in this policy and 34 CFR 106.3(a).

- a. If the Title IX Coordinator and legal counsel determine that the alleged conduct, on the face of the complaint, if proven, would not constitute sex-based harassment under this policy, the Title IX Coordinator will dismiss the complaint. More information on the dismissal process can be found in section VII below. Such determination will be documented in the file.
- b. If the Title IX Coordinator and legal counsel determine that the alleged conduct, on the face of the complaint, if proven, could constitute sex harassment under this policy, the Title IX Coordinator must determine whether there is a basis for filing a Formal Complaint on his or her own accord, or whether the complainant wishes to make a formal complaint. If either is true, **the Title IX Coordinator will move to step 3 or 4, as applicable**. Such determination will be documented in the file.

3. Documentation of Concerns. If the complainant wishes to resolve the complaint/report through notation of concerns only and supportive measures only, the process can conclude with those pieces in place.

If the complaint/report is resolved on that documentation only, the complainant may at a future date choose to request modifications to any supportive measures received or to move forward with either a formal or informal resolution process.

4. Formal Complaint Initiated. If the complainant wishes to file a formal complaint, or the Title IX Coordinator decides to initiate on their own, **the Formal Grievance Process described in section VIII** below will commence (unless the Title IX Coordinator has otherwise made the decision to dismiss the complaint, pursuant to section VII below). If the Title IX Coordinator decides to initiate a complaint, the Title IX Coordinator will notify the complainant prior to doing so and will address the complainant's reasonable concerns about the complainant's safety or the safety of others.
5. Initiation of Informal Process Subsequent to Formal Complaint. If at any point after a complainant files a formal complaint and before a determination has been made as to whether the complained-of conduct constitutes sexual harassment, the complainant expresses their wish to attempt to resolve through an informal resolution process, they may request to do so and the process will continue as described in section VI below.

V. Informal Resolution

- A. **Discretion and Limitations**. Arizona College has sole discretion to offer an informal resolution process to the parties and will consider each complaint on a case-by-case basis. The informal resolution process may not be appropriate when, among other reasons, Arizona College determines that the alleged conduct would present a future risk of harm to others.

Arizona College cannot require parties to participate in an informal resolution process, or require a party waive the right to an investigation and determination of a complaint as a condition of enrollment or employment.

Arizona College does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

- B. Informal Resolution Process.** At any time prior to making a determination as to whether sex-based harassment has occurred, Arizona College may offer to complainant and respondent an informal resolution process.

The process may include the following steps:

1. Consult with the Complainant. The Title IX Coordinator will discuss the complainant's concerns, desired outcome, and available options for addressing the reported conduct.
2. Consider Supportive Measures. In some circumstances, supportive measures, as described elsewhere in this Policy, may adequately address the complainant's concerns and serve as an appropriate resolution without further action.
3. Identify Other Appropriate Resolution Measures. Where additional action may be appropriate, the Title IX Coordinator will consider available informal measures based on the circumstances, the interests of the parties, and the College's responsibility to maintain an educational environment free from sex discrimination. Potential terms that may be included in an informal resolution agreement include but are not limited to:
 - a. Restrictions on contact; and
 - b. Restrictions on the respondent's participation in one or more of Arizona College's programs or activities or attendance at specific events, including restrictions Arizona College could have imposed as remedies or disciplinary sanctions had Arizona College determined at the conclusion of the Formal Grievance Process.
4. Consult with the Respondent and Campus Leadership, as Appropriate. If a proposed resolution would affect the respondent's participation in an Arizona College education program or activity, the Title IX Coordinator will notify and consult with the respondent before implementing the measure. The Title IX Coordinator will also consult with appropriate campus or College leadership regarding implementation, as necessary.
5. Document the Resolution. The Title IX Coordinator will document the resolution and any measures to be implemented and will communicate the outcome to the parties to the extent appropriate.

As required, the Title IX Coordinator must also to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the recipient's education program or activity.

- C. Notice and Consent.** Arizona College will notify the parties in writing of the availability of the informal resolution process. In order to engage in the informal resolution process, both parties must agree in writing.

Before initiation of an informal resolution process, Arizona College will provide to the parties notice that explains:

1. The allegations in the complaint;

2. The requirements of the informal resolution process;
3. That at any time prior to resolution, a party can withdraw from the informal resolution process and initiate or resume the Formal Grievance Process; and,
4. That if the parties agree to a resolution at the conclusion of the informal resolution process they cannot initiate or resume the Formal Grievance Process on the same allegations;
5. The potential terms that may be requested or offered in an informal resolution agreement;
6. That an informal resolution agreement is binding only on the parties; and,
7. The information that Arizona College will maintain and whether and how it could disclose such information for use in the Formal Grievance Process if proceedings on the complaint are initiated or resumed.

The requisite notices described above and the documented, mutually agreed-upon informal resolution must be maintained within the appropriate Title IX files.

As required, the Title IX Coordinator must also take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the recipient's education program or activity. Even though an informal resolution process is provided for, nothing about the informal resolution process precludes the Title IX Coordinator from taking appropriate, prompt, and effective steps, within the parameters of this Policy, to ensure that complained of conduct does not continue or recur within Arizona College's education program or activity.

VI. Dismissal of Complaints.

- A. Required Dismissal.** Arizona College must dismiss a complaint where the conduct alleged in the formal complaint would not constitute sexual harassment, even if proved, did not occur in the recipient's education program or activity, or did not occur against a person in the United States. Such dismissal does not preclude action under the College's Code of Conduct.
- B. Permissive Dismissal.** Arizona College may dismiss a complaint of sex discrimination where:
 1. If specific circumstances prevent Arizona College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
 2. The respondent is not participating in Arizona College's education program or activity and is not employed by Arizona College;
 3. Complainant voluntarily withdraws any or all of the allegations in the complaint and/or the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX or this policy even if proven; or

If the dismissal occurs after the respondent has been notified of the allegations, Arizona College will notify both complainant and respondent of the dismissal and the basis, and will do so simultaneously and in writing.

Arizona College will notify complainant and respondent (if applicable) that complainant may appeal the dismissal of the complaint. Any appeal will follow the process outlined below.

VII. Formal Grievance Process

A. Timeframe. The Formal Grievance Process outlined in this policy will conclude within ninety (90) calendar days from the filing of a complaint in most instances. Arizona College breaks, holidays, a party's need for disability-related accommodations, concurrent law enforcement activities, and/or unforeseen circumstances may impact this timeline. If the process must be delayed or extended, the Title IX Coordinator will provide the complainant and respondent with written notice of the delay, reason for the delay, and the revised timeline. The Title IX Coordinator will also allow a reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay and the anticipated duration of the extension.

B. Treatment of Parties Participating in the Formal Grievance Process. Arizona College will:

1. Promptly investigate and respond to complaints of sex discrimination, including establishing reasonably prompt timeframes for the major stages of this Formal Grievance Process and allowing for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay;
2. Ensure that any person designated Title IX Coordinator, investigator, or decisionmaker is impartial and free of conflict of interest or bias;
3. Not consider an individual's status as a respondent as a negative factor. The respondent shall be afforded the presumption that the respondent is not responsible for the alleged sex discrimination until so found through this Formal Grievance Process;
4. Take reasonable steps to protect the privacy of the parties and witnesses during this Formal Grievance Process;
5. Provide parties the ability to: obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in this Formal Grievance Process;
6. Gather evidence and decide what is relevant or impermissible;
7. Objectively analyze and evaluate only relevant evidence, which may include both inculpatory and exculpatory evidence;
8. Not consider impermissible evidence and questioning on impermissible subjects;
9. Not make credibility determinations based on a person's status as a complainant, respondent, or witness;
10. Follow this Formal Grievance Process before the imposition of any disciplinary sanctions;
11. Provide remedies to a complainant only if this Formal Grievance Process results in a determination that the respondent is responsible for sex discrimination;
12. Make reasoned decisions based on the preponderance of the evidence; and
13. Offer Supportive Measures.

C. Written Notice of Allegations. The written notice of the allegations must contain the following information:

1. Description of this Grievance Process, including the informal resolution process;

2. Sufficient information, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination under this policy, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available and can be disclosed;
3. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence; and,
4. That retaliation is prohibited.
5. Description of the allegations potentially constituting sexual harassment which include sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known; the conduct allegedly constituting sexual harassment; and the date and location of the incident, if known.
6. That respondent is presumed not responsible for the alleged sex-based harassment until a determination under this Formal Grievance Process.
7. That they may have an advisor of their choice who may be, but who is not required to be, an attorney;
8. That they are entitled to an equal opportunity to access (i) the relevant and not otherwise impermissible evidence; or (ii) an investigative report that accurately summarizes this evidence and, upon request of a party, equal access to the relevant and not otherwise impermissible evidence; and,
9. Advisement, if applicable, that the Arizona College code of conduct prohibits a party from making false statements or knowingly submitting false information.

If the investigation discloses new issues outside of the scope of the written notice of allegations, Arizona College will provide a supplemental written notice describing the additional allegations under investigation.

- D. Consolidation of Complaints.** Arizona College may consolidate complaints of sex discrimination when the allegations of sex discrimination arise out of the same facts or circumstances.

Consolidation decisions will be made by the Title IX Coordinator based on considerations of efficiency, fairness to the parties, and the relatedness of the allegations. The Title IX Coordinator will notify all parties in writing when complaints are consolidated.

- E. Investigation.** When investigating a complaint alleging sex-based harassment under this section, Arizona College will:

1. Ensure that the burden of proof and of gathering evidence sufficient to reach a determination regarding responsibility rests on Arizona College and not the parties;
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
4. Provide a party or person whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate;

5. Provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice;
6. Provide the parties with the same opportunities to have persons other than the advisor of the parties' choice present during any meeting or proceeding;
7. Exercise discretion in allowing the parties to present expert witnesses and that any such determination will apply equally to the parties;
8. Allow for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice to the parties that includes the reason for the delay;
9. Provide both parties an equal opportunity to inspect and review any evidence, provided it is relevant and not impermissible, obtained as part of the investigation that is directly related to the allegations raised in a formal complaint. This opportunity to inspect includes the evidence upon which Arizona College does not intend to rely in reaching a determination regarding responsibility, as well as inculpatory or exculpatory evidence (whether obtained from a party or other source), so that each party can meaningfully respond to the evidence prior to conclusion of the investigation;
10. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing (if a hearing is required or other time of determination regarding responsibility if not), send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response;
11. Prior to completion of the investigative report, Arizona College must send to each party and the party's advisor, if any, the evidence subject to inspection and review. The parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report. Arizona College must make all such evidence available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Arizona College will determine in its discretion and on a case-by-case basis the extent to which an advisor may participate in proceedings under this section. Any restrictions imposed will apply equally to the parties.

The parties will have a reasonable opportunity to review and respond to the evidence or the investigative report prior to the determination whether sex-based harassment occurred.

Arizona College will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through proceedings under this section.

- F. Live Hearing.** Arizona College on its own motion or at the request of a party, and in its sole discretion, may decide to conduct a live hearing on a complaint of sex-based harassment under this section. The decision to conduct a live hearing is not subject to appeal. The procedures outlined in 34 CFR 106.45 (b)(6) will govern.
- G. Written Determination.** Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, Arizona College will use the preponderance of the evidence standard of proof to determine whether sex-based harassment occurred and issue a written determination.

1. The decisionmakers(s) – those issuing the written determination – cannot be the same person(s) as the Title IX Coordinator or the investigators,
2. The written determination will include:
 - a. Identification of the allegations potentially constituting sexual harassment;
 - b. 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, methods used to gather other evidence, and hearings held;
 - c. Findings of fact supporting the determination;
 - d. Conclusions regarding the application of the Arizona College's code of conduct to the facts;
 - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the Arizona College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the Arizona College's education program or activity will be provided by the Arizona College to the complainant; and
 - f. Arizona College's procedures and permissible bases for the complainant and respondent to appeal.

Arizona College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that Arizona College provides the parties with the written determination of the result of the 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.

The Title IX Coordinator is responsible, with support from campus and College leadership and HR, as applicable, for effective implementation of any remedies.

- H. Range of Disciplinary Sanctions.** When a determination of responsibility for sexual harassment is made under this Formal Grievance Process, Arizona College may impose a range of disciplinary sanctions or remedies, depending on the severity of the conduct, its impact, and any relevant disciplinary history.

Possible sanctions include, but are not limited to: formal warning, required education or training, no-contact directives, probation, suspension, loss of privileges, reassignment of duties, demotion, or termination of employment for employees, and suspension or expulsion for students.

Arizona College also reserves the right to implement other remedies designed to restore or preserve equal access to its education programs and activities, consistent with Title IX and applicable College policies.

- I. Appeal.** Either party has the right to file an appeal of determination by the decisionmaker of either the respondent's responsibility and/or the dismissal of a formal complaint or any allegations therein.

1. Scope. Appeals are not a re-hearing of the facts of the case and must be limited in scope on the following basis:

- a. The party has discovered new and relevant evidence that was not reasonably available at the time the determination was made that could alter the outcome.
 - b. Allegations that the decisionmaker deviated from the policy or procedure in a way that changed the outcome of the case.
 - c. Evidence that the Title IX Coordinator, investigator or decisionmaker was biased or had a conflict of interest, and such bias or conflict of interest changed the outcome of the case.
2. Initial Process. An appeal request must be made in writing to the Title IX Coordinator within ten (10) calendar days of the delivery of the written determination. The appeal request must include the basis for the appeal and all evidence in support of the request.

If an appeal is filed, Arizona College will notify the parties of the appeal and provide each with a copy of the appeal.

The non-appealing party may choose to respond and, if he or she does so, must respond within ten (10) calendar days.

Any discipline imposed will be suspended pending the outcome of the appeal. Sanctions will take effect upon the expiration of the deadline for an appeal or the conclusion of the appeal.

The Title IX Coordinator will assign a trained and impartial decisionmaker who was not previously involved in the Formal Grievance Procedure to hear the appeal.

3. Review. The appellate decisionmaker may, after reviewing the appeal, deny the appeal without further process if the appeal is groundless – i.e., the appeal is not based on the grounds specified above. In this case, both parties will be notified of the decision, and the party who did not submit the appeal will be provided a copy of the appeal, but they will not need to provide any response.
4. Decision. The appellate decisionmaker will review the appeal materials submitted by both parties. The appellate decisionmaker may also choose to interview the investigator(s) and/or any other person that participated in the investigation and decision-making process but is not obligated to do so.

The appellate decisionmaker will make a final decision on the appeal within thirty (30) days of the filing of the appeal. The original decision may be upheld, reversed, or modified (which includes the possibility that different or additional sanctions may be imposed).

Modification of sanctions can only place a greater burden on the respondent if the appeal was filed by the complainant. The appellate decisionmaker may also refer the matter to the same or different investigator(s) for additional investigation and a new decision-making process.

The Title IX Coordinator will send a written notice to both parties of the decision on appeal. Notice will describe the result of the appeal and the rationale for the result. No further appeal process is available.

VIII. Prohibition on Knowingly Making False Statements

Arizona College is committed to creating a safe environment where reporting of conduct that reasonably may constitute sex discrimination is encouraged.

Arizona College expects individuals to provide truthful information in any report, interview, meeting or proceeding under this policy.

Arizona College requires an individual to act in good faith when reporting acts that reasonably may violate this policy or when serving as a witness in a Formal Grievance Process.

Providing or submitting false or misleading information in bad faith is prohibited and such conduct may be disciplined under the relevant Arizona College policies and procedures. Reports made or information provided in good faith, even if the facts are later unsubstantiated, will not be subject to disciplinary consequences. A determination that sex discrimination did not occur is not, by itself, evidence that any party submitted false or misleading information in bad faith.

IX. Privacy of the Grievance Process

The Formal Grievance Process will remain private to the extent permissible by law. Arizona College cannot guarantee privacy in all situations and will balance privacy and other competing interests on a case-by-case basis. Formal Grievance Process records may be produced subject to a lawful subpoena.

Parties and witnesses shall not disseminate or otherwise disclose information or evidence obtained solely through their participation in a Formal Grievance Process. Arizona College will address any violations under its code of conduct.

Arizona College will not disclose personally identifiable information it has obtained in its enforcement of this policy except where (i) Arizona College has obtained prior written consent from an individual with a legal right to consent to disclosure; (ii) the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue; (iii) necessary to carry out the purposes of this policy, including action taken to address conduct that reasonably may constitute sex discrimination in Arizona College's education program or activity; (iv) as required by federal law or regulation; or, (v) to the extent such disclosures are not otherwise in conflict with Title IX, when required by state or local law or when permitted under FERPA.

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