Allegany College of Maryland

Student & Legal Affairs

Title IX Procedure: Appeals

Sexual Harassment & Sex Discrimination Policy

Appeal of Interim Suspension

- Respondent may appeal an interim suspension implemented pending resolution of the report – whether via informal resolution or informal resolution.
- The Party notifies the Title IX Coordinator in writing; this notification must state the Respondent's basis to lift the suspension, any supporting documentation, and any alternative or modified measure that would address any safety concerns for which the suspension was imposed.
- Upon receipt, the Title IX Coordinator may choose to modify or lift the suspension OR shall forward the notification as well as the reason for the suspension to the Deputy Title IX Coordinator who has discretion to gather additional information as necessary. Deputy Title IX Coordinator will decide whether to approve, modify, or deny the suspension.

Appeal of Complaint Dismissals

- Complainant may appeal the dismissal of a formal complaint by the Title IX Coordinator.
- The Party notifies the Title IX Coordinator in writing; this notification must state the reason Complainant believes dismissal was an error and any supporting documentation.
- Upon receipt, the Title IX Coordinator may reconsider the dismissal OR shall forward the notification as well as the reason for the dismissal being appealed to the Deputy Title IX Coordinator who has discretion to gather additional information as necessary. Deputy Title IX Coordinator decides whether to reinstate the complaint.

Appeal of Final Determination:

- Either Party may appeal the findings if their grounds meet the required criteria:
  - » Procedural irregularity that would change the outcome,
  - » New evidence that was previously unavailable and that would change the outcome, or
  - » Investigators or Hearing Officers had a conflict of interest or bias* that would change the outcome.

    *for against complainants/respondents generally or this case's individual complainant/respondent
- Merely being dissatisfied with the outcome or the sanctions/remedies is not sufficient.
- Appeals must be submitted to the Title IX Coordinator using the designated form with any supporting documentation within fifteen (15) days of the Hearing Officers decision/findings.
- The appeal petition must be supported by reference to specific evidence not by vague claims or assertions.
- Appeal petitions and the Hearing Officers decision/findings shall be promptly forwarded to Title IX Coordinator who shall determine if the appeal petition satisfies the required criteria on the basis of what is submitted in writing, any supporting documentation, and the case record.
- If the petition does not satisfy the required criteria , the Title IX Coordinator will notify the Party in writing that the appeal petition lacks merit, the findings (as well as any sanctions and remedies assigned) remain in full effect, and the matter is closed. The Title IX Coordinator shall inform the Hearing Officers.
- If the petition satisfies required criteria, the Title IX Coordinator will notify the Parties in writing that the appeal will be accepted for review. The Hearing Officers shall also be notified. A copy of the appeal and any supporting documents are provided to the non-appealing Party who must have an opportunity to respond to the appeal in writing within ten (10) days. Upon receiving the non-appealing Party's response, the Title IX Coordinator will forward the entire case record (including the investigation report with all evidence, the Hearing Officers written decision/findings, and all appeal paperwork) to the Appeal Officer.
- The appeal is **not** a *de novo* review; its scope is limited to the procedural issue(s) stated in the appeal petition. Appeal Officer has discretion to schedule meetings and/or communicate with Parties (and their Advisors), Hearing Officer(s), Title IX Coordinator, Investigators, and/or relevant witnesses. Appeal Officer should show deference to the Hearing Officer(s) decision, making changes only if there has been a

clear error/violation; the Appeal Officer should be careful not to substitute their judgement for the Hearing Officer(s) regarding any facts, substantive matter, credibility or other non-procedural error. At the conclusion of these proceedings (within 30 days unless more time is needed with notice to the Parties), the Appeal Officer will issue a written notification of the appeal's findings and reasoning to both Parties, the Title IX Coordinator, and the Hearing Officers. The original decision may be affirmed or sent back to the Hearing Officers for reconsideration and/or implementation of any directives to correct the procedural error. Decisions by the Appeal Officer are final.

- Remanded appeals are considered by the Hearing Officers on the basis of all available information, but there is no new hearing. The Parties may supplement their record in writing addressing only the issues sent back to the Hearing Officers by the Appeal Officer. At the conclusion of these proceedings (within 30 days unless more time is needed with notice to the Parties), the Hearing Officers will issue a supplemental notification of decision. If there is no change to the findings or any sanction, this Decision is final. If the findings or sanction are different, the Parties may appeal following the procedure described above. The outcome for any such appeal is final.
- At no time may an appeal refer the matter to a different institutional process.