Allegany College of Maryland
Student & Legal Affairs

Title IX Procedure –Investigations

Sexual Harassment & Sex Discrimination Policy

Formal Investigations

A formal investigation of any allegation of sex-based harassment or sex discrimination occurs only *after* the identified Complainant has submitted a written Complaint that does not meet the dismissal criteria AND the Parties have declined Informal Resolution. Title IX Coordinator may sign a written Complaint under specific circumstances including a pattern of misconduct, use of a weapon, and/or continuing risk to others.

The purpose of the investigation is to gather sufficient information for the College to determine:

1.) whether the allegation occurred and
2.) if so, whether the conduct violates the Sexual Harassment & Sex Discrimination Policy.

An investigation is the gathering of facts. It is not about opinion, and investigators do not take sides or voice support for a Party until the investigation is complete. How long the investigation takes will depend upon the unique circumstances such as complexity of the allegation and availability of the Parties, witnesses, and evidence. However, the federal regulations require a prompt investigation. Investigators will be efficient but must also be thorough; deadlines will be set, and Parties will be notified of any unexpected delays. Multiple complaints may be consolidated into one investigation if the allegations arise from the same facts or circumstances. New allegations made during the investigation may be added to the investigation upon written notice to the Parties. Investigations may be interrupted if the Complainant withdraws the Complaint or if the Parties agree in writing to pursue an Informal Resolution.

Privacy of all persons involved in the matter being investigated will be protected to the greatest extent possible. Amnesty applies for drug/alcohol violations by Parties and witnesses. See **Definitions** for the criteria. Retaliation against any Party, witness, investigator, or any person involved with the matter is prohibited.

College investigations are separate from and completely independent of any criminal investigation or civil proceeding. Multiple processes can (and often do) happen at the same time. Institutional procedures may not be delayed for law enforcement/court action to conclude unless there are particular, justifiable circumstances with notice to the Parties.

Under no circumstances may any unauthorized person conduct any investigation or otherwise try to gather information about a Title IX matter; doing so compromises the College's investigation, jeopardizes the outcome, and violates federal regulations.

Investigation Basics:

- Parties are notified in writing by the Title IX Coordinator that the matter has been referred for a formal investigation. Notifications contain information the Parties need to navigate the process including their rights and responsibilities. Parties receive the same notifications, are treated equally with the same rights/responsibilities, and may receive supportive measures administered by the Title IX Coordinator. The Notice of Investigation may be updated/revised as necessary – with copies to the Parties.
- Investigations are conducted by Campus Safety/Special Police in accordance with Title IX rules.
- Investigators (2) conduct a full, thorough, and unbiased investigation:
  - ✓ initial report/complaint
  - ✓ identification of any witnesses
  - ✓ written statements must be provided by the Parties
  - ✓ interviews with the Parties
  - ✓ interviews with any witnesses (fact *or* expert – either Party may offer witnesses)
  - ✓ questions submitted by a Party to be asked of another Party or witness
  - ✓ police reports and/or other reports from third party investigative/enforcement authorities
  - ✓ official records and documents provided by Parties, witnesses, ACM officials, third parties.
  - ✓ emails, texts, social media posts, etc. provided by Parties, witnesses, employees, third parties.
  - ✓ videos/photos/recordings provided by Parties, witnesses, ACM officials, third parties
  - ✓ physical evidence (ie., specific items such as clothing, personal property, electronics, etc.)

- ✓ institutional documents (eg., policies, procedures, forms, manuals, documents, records, databases, publications, program materials, course materials, course syllabi)
- ✓ follow up interviews and/or information-gathering as appropriate
- ✓ any impact statement and mitigation statements voluntarily submitted by the Parties

- Parties and witnesses who receive notification of an investigation must comply with ACM directives.
- Parties and witnesses must schedule their interviews and provide their written statements within 2 weeks of notification.
  Any person who refuses to cooperate could be subject to institutional action/discipline (eg., Failure to Comply).
- Parties may be accompanied by an Advisor of their choosing to any proceeding; Advisors may be present and may consult privately with the Party but may not participate.
- Only permissible, relevant questions may be asked, and only permissible, relevant evidence may be collected and considered. Standards:
  If there is a doubt whether the question or evidence both permissible and relevant to the investigation, consult the Title IX Coordinator.
  - Relevance: does the evidence help determine whether the allegation occurred and, if so, whether it violated policy?
  - Information about prior disciplinary action is not permitted unless it is offered to show a pattern of misconduct.
  - Information about a Party's prior sexual conduct is not permitted unless it is offered to prove someone else committed the alleged conduct or prior sexual contact between the Parties is offered to show consent. Such information may be considered but neither proves nor disproves the allegation.
- Interviews are recorded.
- Investigators shall maintain an evidentiary file to contain direct and relevant evidence collected.
- All evidence must be preserved unless/until it is cleared to be returned by the appropriate College authority. Only evidence that has been obtained lawfully by any person may be used in the investigation. Maryland is a 2-party consent state.
- Any person who has information or evidence is responsible for providing that information/evidence in a timely manner and accessible format to the Investigators – including but not limited to technology, devices, platforms, software, etc.
- When the investigation is complete, issue a written report. Elements of the report include:
  (1) Allegation(s) being investigated – including the original allegation and any that were disclosed during the investigation
  (2) identification of Parties, any witnesses, Advisors, and Investigators
  (3) dates, times, locations related to the incident
  (4) affirmation that the Respondent is presumed innocent, the Investigators remained neutral throughout the investigation, and the Parties were treated equally
  (5) summary of interviews and evidence
  (6) any findings of fact based upon objective evidence (e.g., College video)
  (7) documentation of issues that are undisputed by the Parties
  (8) description of issues that are disputed by the Parties
  (9) description of any other information that would aid decision-making including but not limited to cooperation or non-cooperation of any person, contradictions within or between statements, submission of knowingly false statements or false evidence, and information that could not be obtained despite reasonable efforts.
- The draft report and a copy of the evidentiary file will be provided to the Parties and their Advisors. The Parties and their Advisors may submit comments and/or additional questions to be asked of a Party or witness within 10 days of receiving the draft report.
- Investigators will conduct any necessary follow-up including interviews or evidence-gathering.
- Investigators will issue a final report which is provided to the Parties and their Advisors along with any additions to the evidentiary file. Parties and their Advisors will have the report and access to evidence for 10 days before the materials are advanced to the Title IX Coordinator.
- Parties and Advisors may not redistribute the draft/final reports or the evidentiary file to any person. The documents are institutional work-product and confidential.
- The final report and evidentiary file will be submitted to the Title IX Coordinator who reviews all materials, holds pre-hearing meeting with each Party and their Advisor, schedules the Hearing, and issues notifications to the Parties, Witnesses, Investigators, and Hearing Officer(s).
- Upon submitting the final report, the investigation is closed.
  *The investigation may be reopened before any formal resolution is concluded if additional information is needed.