

Policy 100.3 Sexual Harassment Grievance Procedures

Procedures

I. Introduction and Purpose

The purpose of these Grievance Procedures (“Procedures”), as set forth below, is to provide prompt and equitable resolution of allegations of Sexual Harassment as contemplated and prohibited by the College’s Sexual Harassment Policy (“Policy”).

I. Reporting

The College encourages prompt reporting of conduct that may violate this Policy. Reports of Sexual Harassment should be made directly to the Title IX Coordinator. Anybody may report concerns of Sexual Harassment to the Title IX Coordinator¹. There is no time limit for reporting. However, the sooner the Title IX Coordinator receives a report, the better able it will be to respond, investigate, remedy and impose corrective action/discipline, if appropriate.

Title IX Coordinator
Donaldson Campus/Welcome Center/Rm 101D
Helena, MT 59601
(406) 447-6913 | conflict@helenacollege.edu |

Some forms of conduct contemplated by this Policy may also constitute a crime and the College encourages individuals to also make reports of crime to law enforcement including the Helena Police Department (“HPD”) or other appropriate law enforcement agency. The Title IX Coordinator can aid in reporting to law enforcement.

II. Responding to a Report

A report of conduct that may reasonably constitute Sexual Harassment prompts the Title IX Coordinator to: (1) reach out to the identified Complainant to offer and coordinate Supportive Measures, as described below at Section VIII; and (2) invite the Complainant to meet with the Title IX Coordinator to assess applicability and discuss resolution options, which may include how to file a Formal Complaint, as described at Section III.

The Title IX Coordinator will conduct an initial assessment of the reported conduct to assess the Policy applicability, evaluate the grounds for dismissal, and determine if other College action is necessary. An initial assessment may involve an intake meeting with the Complainant and a preliminary review of evidence and applicable records.

III. Formal Complaint

The College will not initiate any resolution process, as described below at Section VII, in the absence of a Formal Complaint. A Formal Complaint means a document signed by a Complainant alleging Sexual Harassment by a named Respondent and requesting that the College investigate and resolve the allegation(s) of Sexual Harassment. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, by electronic mail,

¹ A report of Sexual Harassment by or against the Title IX Coordinator should be filed with the University of Montana’s Title IX Coordinator, (<https://www.umt.edu/equal-opportunity-title-IX/default.php>).

or at the contact information listed in the Policy at Section VII. The Formal Complaint must contain the Complainant's physical or digital signature or otherwise indicate that the Complainant is the person filing the Formal Complaint.

It is the practice of the Title IX Coordinator to prepare a Formal Complaint for a Complainant's review and signature based on information provided by the Complainant.

(A) Institutional Formal Complaint

The Title IX Coordinator will sign an Institutional Formal Complaint on behalf of the College, in the Title IX Coordinator's judgment, failing to take action would pose a serious or ongoing threat to the welfare of campus. The Title IX Coordinator may bring forth an Institutional Formal Complaint without a requesting or participating Complainant based on factors such as:

- The risk that additional acts of Sexual Harassment would occur if a Formal Complaint were not initiated;
- The severity of the reported Sexual Harassment, including whether the conduct, if proven, would require the removal of the Respondent from campus or imposition of another sanction to stop the conduct and prevent its recurrence;
- The age and relationship of the individuals involved;
- The status of the individuals involved, including whether the Respondent is an employee;
- The scope, frequency, and duration of the reported Sexual Harassment, including information suggesting a pattern, ongoing conduct, or conduct reported to have impacted multiple individuals;
- The availability of evidence to reach a determination; and
- Whether the College could stop the reported Sexual Harassment and prevent its recurrence without initiating the Grievance Proceedings.

(B) Consolidation

The Title IX Coordinator may consolidate Formal Complaints where the allegations of Sexual Harassment arise out of the same facts or circumstances. Consolidation may occur when:

1. A Formal Complaint is made against more than one (1) Respondent;
2. More than one (1) Complainant initiates a Formal Complaint against the same Respondent(s); or
3. A Counter-Complaint is initiated, as described below.

(C) Counter-Complaint

The College is obligated to ensure that the resolution processes are not abused for retaliatory purposes. Although the College permits the filing of Counter-Complaints, the Title IX Coordinator will use an initial assessment to assess whether allegations in a Counter-Complaint are made in good faith. When Counter-Complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a violation of the Policy.

Counter-Complaints determined to have been reported in good faith will be processed using the resolution processes, as described at Section VII of these Procedures. At the Title IX Coordinator's discretion, investigation of such claims may take place concurrently or after resolution of the underlying initial Formal Complaint.

(D) Collateral Misconduct

Collateral Misconduct is defined to include potential violations of College policies not incorporated into this Policy that is alleged to have occurred in conjunction with reported Sexual Harassment or that arises through the course of the investigation. Collateral Misconduct may be charged along with provisions of the Policy, to be resolved jointly under these Procedures. In such circumstances, the Title IX Coordinator will consult with College

officials who typically oversee such misconduct (e.g., Human Resource Services, Student Conduct Officer, and Office of the Dean).

The College strongly encourages students to report instances of potential Sexual Harassment. Therefore, students will not be disciplined by the College for any violation of the College's drug or alcohol possession or consumption policies in which they might have engaged in connection with the reported incident. Amnesty does not preclude or prevent action by police or other legal authorities pursuant to relevant state or federal criminal statutes.

IV. Notice

Upon the filing of a Formal Complaint, the Title IX Coordinator will promptly issue a written notice to the Complainant(s) and Respondent(s). The Formal Complaint will be attached to the Notice and incorporated by reference therein.

V. Interim Action

(A) Student Respondent

Where the Title IX Coordinator identifies that a student's continued presence on campus, at certain activities, or in certain locations constitutes an immediate threat to the physical health or safety of any member of the College community, the Title IX Coordinator may refer the matter to the CARE Team to undertake an individualized safety and risk analysis and evaluation under the Student Code of Conduct. The College may remove a student pending resolution of a Formal Complaint in accordance with the Student Code of Conduct. If the College determines that the threat posed by a student is confined to a particular College program or activity, the College, may, in its discretion, remove such student only from such program or activity, consistent with the Student Code of Conduct.

(B) Employee Respondent

When, in the judgment of the Title IX Coordinator, a matter warrants consideration for interim or administrative action, the Title IX Coordinator may refer the matter to the Chief HR Officer for evaluation under applicable employment policies, procedures, and/or collective bargaining agreements. In consultation with the Title IX Coordinator, the supervisory authority may place the employee accused of violating this Policy on administrative leave or suspension, or may impose interim measures such as behavioral expectations, restrictions, or alternative work assignments, as deemed necessary. Such actions will generally remain in effect until the Formal Complaint is resolved, unless modified by the supervisory authority.

VI. Dismissal

The College may dismiss a Formal Complaint or portion of a Formal Complaint as described below. A Formal Complaint dismissed by the Title IX Coordinator may not be subsequently refiled absent extenuating circumstances, as determined by the Title IX Coordinator. Upon dismissal of a Formal Complaint for any reason, the Title IX Coordinator will promptly send written notice of the dismissal to the Complainant(s) and Respondent(s), including the reason(s) for dismissal, any terms of the dismissal (where appropriate), and the right to appeal as set forth at Section X(E) of these Procedures.

(A) Mandatory Dismissal

The Title IX Coordinator will dismiss the Formal Complaint or specific allegations or charges in a Formal Complaint therein if the Title IX Coordinator determines that: (1) the conduct alleged in the Formal Complaint, even if proven, would not constitute Sexual Harassment; (2) the reported conduct does not meet the applicability of this Policy; or (3) the reported conduct did not occur in the United States.

(B) Discretionary Dismissal

The Title IX Coordinator may dismiss a Formal Complaint or specific allegations or charges in a Formal Complaint if, at any time during the investigation or adjudication: (1) the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegation therein; (2) the Respondent is no longer affiliated with the College; or (3) specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations.

VII. Resolution Processes

The College has two processes to resolve a Formal Complaint:

(A) Adaptive Resolution. A voluntary process where the Complainant(s), Respondent(s), and Title IX Coordinator decide on mutually agreed upon terms to fully and finally resolve the allegation(s) contained in the Formal Complaint, as described at Section IX, which may include mediation, restorative practices, and facilitated dialogue. The Adaptive Resolution Process may not be used to resolve allegations that an employee sexually harassed a student.

(B) Grievance Proceedings. A prompt, fair, and impartial process where the allegation(s) contained in the Formal Complaint is resolved through formal Grievance Proceedings, including an investigation, adjudication, sanctioning (if applicable), and appeal process. Grievance Proceedings are described at Section X.

VIII. Process-Based Rights

A party involved in any resolution process governed by these Procedures has certain rights. These include the right to:

- Be treated equitably.
- A process free from bias and conflict of interest. If a party believes that any individual involved in the resolution processes (including the Title IX Coordinator, Investigator, and Hearing Panel) has a conflict of interest or bias for or against complainants or respondents generally or the individual party, they may request alternative personnel. Determination of whether alternative personnel is warranted will be decided by the University of Montana's Office of Conflict, Resolution, and Policy.
- Be accompanied by one (1) Advisor of their choice, who may be, but is not required to be, an attorney, to accompany that party to all meetings and provide advice, consultation, and support during the resolution process. A description of the role of an Advisor and the expectations of such Advisors is located in Appendix B.
- Be accompanied by one (1) Support Person of their choice to provide emotional support and assistance to a party during resolution processes.
- An equal opportunity to present and review relevant and not otherwise impermissible evidence, as described at Section X(A).
- An objective evaluation of all relevant and not otherwise impermissible evidence, as described at Section X(C).
- Timely resolution of the case, as described at Section XII.

IX. Adaptive Resolution

To initiate Adaptive Resolution, any party or the Title IX Coordinator may propose engagement in the Adaptive Resolution Process, which the Adaptive Resolution Facilitator (who may be the Title IX Coordinator) is responsible for facilitating. All parties must provide voluntary, written consent to participate in the Adaptive Resolution, which will temporarily pause the Grievance Proceedings occurring.

At any time before completing Adaptive Resolution, any party or the Title IX Coordinator may withdraw from Adaptive Resolution, prompting the Grievance Proceedings to resume. The Title IX Coordinator retains the authority to determine whether any Adaptive Resolution is sufficient.

Information learned solely as a result of Adaptive Resolution, which would not likely be discovered through ordinary investigative efforts, may not be used in the Grievance Proceedings. The fact that the parties participated or that any party declined to participate or withdrew from Adaptive Resolution may not be considered in the Grievance Proceedings.

The Title IX Coordinator will obtain voluntary, written confirmation that all parties wish to resolve the matter through Adaptive Resolution before proceeding and will not unreasonably pressure the parties to participate in Adaptive Resolution.

The record resulting from Adaptive Resolution is (1) a copy of the Formal Complaint; and (2) the written Adaptive Resolution Agreement signed by all parties and the Title IX Coordinator. These records will be maintained in accordance with Section IX of the Policy. The Title IX Coordinator may share the Adaptive Resolution Agreement or terms contained therein only to the extent necessary to effectuate its purpose(s) or to comply with federal or state laws and grant reporting obligations.

The Title IX Coordinator will oversee party compliance with an Adaptive Resolution Agreement executed under these Procedures. Alleged noncompliance with an Adaptive Resolution Agreement will be considered by the applicable enforcement entity, which may include the Student Conduct Officer, Office of Human Resource Services (“HRS”), Office of the Dean, and the Helena Police Department (“HPD”).

X. Grievance Proceedings

The College uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that individuals are presumed not to have engaged in reported misconduct unless a preponderance of the evidence supports a finding that Sexual Harassment has occurred. This standard requires that the evidence supporting each finding be more convincing than the evidence in opposition to it.

The Respondent may, at any time prior to the issuance of the written determination, elect to resolve a Formal Complaint by accepting responsibility for the alleged conduct, in which case the Title IX Coordinator will issue a brief investigation report stating that the Respondent has accepted responsibility, and refer the matter for determination of sanctions, as described at Section X(E).

(A) Investigation Phase

The College will provide adequate, reliable, and impartial investigations. The Title IX Coordinator will assign a properly trained and impartial Investigator.

The Investigator will provide parties with 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. A party may request a reasonable extension, as described at Section XII.

If, in the course of the investigation, information becomes available that leads to the investigation of an additional charge or substantial factual allegation that was not included in the initial written notice, the Title IX Coordinator will provide additional written notice to the parties.

The parties and witnesses may choose to participate or decline to participate in the investigation but are encouraged to cooperate with College investigations and to share what they know about allegations contained in the Formal Complaint. However, even if a party declines to participate, the College may deem it necessary to investigate the Formal Complaint. Coercing any party or witness to participate or not participate in the Grievance Proceeding violates the protection afforded to parties and witnesses, as described at Section IV of the Policy. Absent extenuating circumstances, personnel involved in the resolution process will not serve as witnesses.

An investigation will afford all parties an opportunity to present relevant and not otherwise impermissible witnesses and evidence. Although the obligation to gather information as part of the investigation is on the College, the parties are expected to provide any relevant information within their knowledge or possession to the Investigator and to do so as early in the process as possible.

The Investigator has the discretion to determine if evidence is relevant and not otherwise impermissible.

Relevant Evidence. Evidence that tends to prove (inculpatory) or disprove (exculpatory) an element of Sexual Harassment charged in the Formal Complaint.

Directly Related, but Irrelevant Evidence. Evidence connected to the Formal Complaint, but neither tends to prove (inculpatory) or disprove (exculpatory) an element of Sexual Harassment charged in the Formal Complaint.

Impermissible Evidence. The Investigator may not access, consider, disclose, or otherwise use impermissible evidence regardless of whether such evidence is relevant. Impermissible evidence only includes:

- Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a Confidential Resource, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the College obtains that party's or witness's voluntary, written consent to do so for this Grievance Proceeding; and
- Evidence that relates to the Complainant's sexual predisposition or prior sexual behavior, unless such evidence is: (1) offered to prove that someone other than the Respondent committed the alleged conduct; or (2) about specific incidents of the Complainant's prior sexual behavior with the Respondent that is offered to prove consent. The occurrence(s) of distinct consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent during the sexual conduct at issue.

(B) Evidentiary Review Phase

The Investigator will share a Preliminary Investigation Report with the parties, simultaneously, upon conclusion of the Investigation Phase. The parties will have ten (10) days to review the contents of the Preliminary Investigation Report and submit relevant feedback. Feedback should be limited to clarification and corrections to that party's testimony, responses to information in which the party did not have an opportunity to address previously, perceived misrepresentation of testimony or evidence, and to challenge the authenticity or relevance of testimony or evidence.

During this feedback period, parties will also have a final opportunity to identify additional witnesses and submit additional evidence. As parties are expected to provide such information as early as possible in the process, any

party proposing witnesses and evidence in their response to the Preliminary Investigation Report must identify whether that information was previously available to them, and if so, why they did not previously provide it. To ensure a timely resolution of the case, proposed witnesses and evidence will not be accepted in the Evidentiary Review Phase that were reasonably known and available for submission during the Investigation Phase.

Evidence deemed directly related but irrelevant will be included in an appendix of the Preliminary Investigation Report. If a party believes such evidence to instead be relevant, they must provide justification in their written feedback. The Investigator will consider this feedback for a final determination of relevancy. Any remaining evidence deemed irrelevant will not be included in the Final Investigation Report or considered during the Determination Phase.

After the Investigator has received the written feedback from the parties or such deadline has expired, the Investigator will, as appropriate, pursue any necessary additional investigative steps and issue a Final Investigation Report.

The parties will have ten (10) days to review the Final Investigation Report and provide a final written response identifying outstanding concerns with the Final Investigation Report not previously raised, which will also be provided to the opposing party prior to the Determination Phase. The Title IX Coordinator reserves the right to submit a written reply in response to any written response to the Final Investigation Report.

The Title IX Coordinator will provide the following records (“Investigation File”) to the parties, their respective Advisors and Support Persons, and the Hearing Panel: (1) Final Investigation Report; and (2) All written responses provided by the parties to the Investigator and any replies made by the Title IX Coordinator.

(C) Determination Phase

Following the Evidentiary Review Phase, all relevant and not otherwise impermissible evidence will be objectively evaluated through the Determination Phase as described below. The Determination Phase is not intended to be a repeat of the investigation. The Hearing Panel will be provided with the Investigation File and will review the documents and be versed in the case.

Generally, evidence and witnesses must be identified, deemed relevant, and accepted during the Investigation Phase or Evidentiary Review Phase. New evidence and witnesses cannot be introduced for the first time during the Determination Phase. Witnesses that did not participate in the investigation cannot be called to testify at any forthcoming hearing.

(1) Live Hearing

A Hearing Panel will be comprised of two Helena College administrators appointed by the University of Montana Vice President of People & Culture and a Hearing Chair from the Office of Conflict, Resolution, & Policy. The Title IX Coordinator and the Investigator of the specific case will not serve as a Hearing Panelist or the Hearing Chair.

The Hearing Chair has broad authority to administer any hearing over which they preside, including the order of presentation, timing, and overall duration of such hearing. The Hearing Chair is responsible for enforcing the Rule of Decorum for Live Hearings, as outlined in Appendix C, to maintain order, fairness, and respect throughout the Determination Phase.

A party’s Advisor does not participate in the hearing except for the limited purpose of conducting cross-examination on behalf of that party. If a party does not have an Advisor, the College will, without fee or charge to the party, provide an Advisor of the College’s choice, for the sole and limited purpose of attending the pre-hearing conference and the hearing to conduct cross-examination on behalf of that party.

The Hearing Chair may convene a pre-hearing conference with each party and their respective Advisor and invite them to submit the questions or topics they wish to present at the hearing, so that the Hearing Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide

recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the party from proposing a question for the first time at the hearing based on any new information or testimony offered at the hearing.

All questioning will be conducted by the Hearing Chair and Advisors. Parties are prohibited from directly questioning the opposing party and witnesses. At the time and in a manner deemed appropriate by the Hearing Chair, the Advisor for each party will be permitted to ask the other party and any witnesses relevant cross-examination questions and follow-up questions.

The Hearing Chair will determine whether questions are relevant and not otherwise impermissible prior to the question being asked. If the Hearing Chair determines that a question is irrelevant or impermissible, the Hearing Chair will provide the party or their Hearing Advisor an opportunity to revise or clarify the question.

Any hearing will be conducted virtually, with technology enabling all participants to see and hear one another in real-time. The College will create a recording of any hearing and will make it available to the parties for inspection or review upon request. Other recordings or transcriptions of any hearing are not permitted.

Attendance at a hearing is limited to the parties, their respective Advisors and support persons, Hearing Panel, and technical support personnel. The Investigator and witnesses may be present only during portions of the hearing applicable to them. Other College personnel may attend at the request of or with the prior approval of the Title IX Coordinator, but parties will be notified in advance of anyone who will be in attendance.

(2) Written Determination

At the conclusion of the hearing, the Hearing Panel will review all relevant and not otherwise impermissible evidence to make a determination of whether, by preponderance of the evidence, the Respondent violated the applicable provision(s) of the Policy and collateral misconduct, as applicable. Following deliberation, the Hearing Chair will write a written determination for submission to the Title IX Coordinator.

In the absence of a finding of responsibility or in cases involving an Employee Respondent, the Title IX Coordinator will share the written determination with the parties, simultaneously, upon receipt from the Hearing Chair. If a Student Respondent is found to have violated one or more provisions of the Policy, the Title IX Coordinator will complete the Sanction Phase prior to issuance of the written determination, as described below at Section X(D)(1).

(D) Sanctioning Phase

The Title IX Coordinator is responsible for facilitating the Sanctioning Phase and overseeing party compliance with assigned sanctions. Alleged noncompliance with assigned sanctions will be considered by the applicable enforcement entity, which may include the Student Conduct Officer, HRS, or Office of the Dean. Alleged violations of prohibition from College property or College programs or activities may lead to criminal trespass, issued and enforced by HPD or the appropriate law enforcement agency.

(1) Student Respondents

The Title IX Coordinator/ Student Conduct Officer are responsible for determining appropriate sanctions against Student Respondents. In determining the appropriate sanctions, the Title IX Coordinator and Student Conduct Officer will be guided by the following considerations:

- The nature, severity of, and circumstances surrounding the violation(s);
- The impact of the Sexual Harassment on the Complainant;
- The impact of the Sexual Harassment on the community or the College;
- Whether the Respondent has accepted responsibility for the Sexual Harassment, which may be considered as a factor that may lessen, not increase, the severity of the sanctions;

- The Respondent’s disciplinary history;
- Maintenance of a safe and respectful environment conducive to learning;
- Protection of the College community;
- The necessity of any specific action in order to eliminate the Sexual Harassment, prevent its recurrence, and remedy its effects on the Complainant or other College community members; and
- Any other mitigating, aggravating, or compelling circumstances.

Possible sanctions against students may include one or more of the following:

- (i) **Disciplinary Probation:** The Respondent may continue attending/engaging at the College but is subject to restrictions or conditions imposed by the College for a specified period of time. Further violation of the College policies while under disciplinary probation will result in more severe sanctions including the possibility of expulsion or suspension of student status.
- (ii) **Suspension:** The Respondent is separated from the College for a specified period and may also be prohibited from being on the College property or attending any College programs or activities during such specified period.
- (iii) **Expulsion:** Involuntary removal of student status indefinitely. This may also include prohibition from being on the College property or attending any College programs or activities indefinitely.
- (iv) **Restitution:** The Respondent is required to make payment to the College and/or another person or entity for actual financial loss resulting from a Sexual Harassment violation.
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- (v) **Other Sanctions:** In addition to or in place of the above, restriction or banning from certain on-campus facilities, restriction or prohibition from attending campus events or participating in campus activities, loss of privileges, and requirements to attend and complete classes, programs, workshops, and/or counseling sessions. Details of the terms of the sanction will be provided in writing.

(2) Employee Respondents

After any appeal or opportunity for appeal has been exhausted, the Title IX Coordinator will provide the Written Determination, and any final decisions on appeal, to Chief HR Officer with the authority to impose sanctions in accordance with applicable employment policies, procedures, and collective bargaining agreements. The Title IX Coordinator will provide guidance to the sanctioning authority to ensure that the College meets its obligation to eliminate the Sexual Harassment, prevent its recurrence, and remedy its effects on the Complainant or other College community members. The Title IX Coordinator will ensure that proper notice of sanctions is provided to the Respondent at the conclusion of any sanctioning process.

The Title IX Coordinator will inform the Complainant(s) of the status of the employee sanctioning process and outcomes, insofar as they directly relate to the Complainant(s)’s participation in College programs or activities.

Possible sanctions against employees may include one or more of the following:

- (i) **Written Warning:** The Respondent is issued a written warning, which is placed in the Respondent’s personnel file for at least one (1) year. Further violation of the College policies during this timeframe will result in more severe sanctions including possibility of termination of employment status.
- (ii) **Suspension (with or without pay):** The Respondent is separated from the College for a specified period and may also be prohibited from being on the College property or attending any College programs or activities during such specified period.

- (iii) **Termination:** Involuntary removal of employment status indefinitely. This may also include prohibition from being on the College property or attending any College programs or activities indefinitely.
- (iv) **Restitution:** The Respondent is required to make payment to the College and/or another person or entity for actual financial loss resulting from a Sexual Harassment violation.
- (v) **Other Sanctions:** In addition to or in place of the above, other sanctions may be imposed such as restriction or banning from certain on-campus facilities, restriction or prohibition from attending campus events or participating in campus activities, loss of privileges, revised workload or work schedule, performance management, and requirements to attend and complete classes, programs, workshops, and/or counseling sessions. Details of the terms of the sanction will be provided in writing.

(3) Respondents who are students and employees

If the Respondent is a student and employee, the Title IX Coordinator and Chief HR Officer will determine sanctions with respect to the Respondent's status as a student, as described above. Only in circumstances where the Respondent's conduct is substantially linked to their employment or if the Respondent's student-status sanctions may cause them to be ineligible for such employment, the Title IX Coordinator will provide the written decision to the College administrator(s) with Chief HR Officer sanctions in accordance with applicable employment policies, procedures, and collective bargaining agreements, as described above.

(E) Appeal

Either or both parties may appeal from a determination regarding responsibility and from the College's dismissal of a Formal Complaint or any allegations therein. An appeal must be submitted to the Title IX Coordinator within ten (10) days of the date the Written Determination was issued to the parties.

Either party may appeal on the following bases only:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that affected the outcome and that was not reasonably available when the determination was made, that affected the outcome of the matter; and
- The Title IX Coordinator, Investigator, or Hearing Panel had a Conflict of Interest or Bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

Upon receipt of an appeal, the Title IX Coordinator will notify the other party in writing and will issue instructions, including reasonable deadlines for the non-appealing party to submit a written response. The Title IX Coordinator reserves the right to submit a written statement in response to any appeal submission.

Once the Title IX Coordinator has received the written statements or such deadline has expired, the Title IX Coordinator will provide to the Appellate Officer: (1) written statements submitted by the parties and any response made by the Title IX Coordinator; (2) the written determination; (3) recording of any hearing; and (4) the Sanctioning Determination (if applicable).

The Appellate Officer will be:

- The University of Montana Dean of Students, or designee, for cases involving student Respondents
- The University of Montana Vice President for People & Culture, or designee, for cases involving Employee Respondents

The Appellate Officer will write a written determination for submission to the Title IX Coordinator. The Title IX Coordinator will share the written determination with the parties, simultaneously, upon receipt from the Appellate Officer.

A decision by the Appellate Officer is the final decision of the College and thus concludes the Grievance Proceedings. As such, appropriate Sanctions may be immediately imposed, regardless of whether a party files an appeal under Board of Regents Policy 203.5.2, described below.

[Board of Regents Policy 203.5.2](#) provides that any party may appeal the final decision of the College, within thirty (30) days of the Appellate Officer's decision to the Commissioner of Higher Education.

XI. Remedies

Following the conclusion of the resolution process, and in addition to any sanctions implemented or Adaptive Resolution terms, the Title IX Coordinator may implement additional Remedies or actions with respect to the parties and/or the College community that are intended to remedy the effects of Sexual Harassment and support prevention efforts.

These remedies/actions may include but are not limited to: restoring a Complainant's access to a College program or activity; policy drafting and modification; education and training; and similar individualized services as Supportive Measures, as described at Section VIII of the Policy, although such services need not be non-disciplinary, non-punitive, not unreasonably burdensome to the Respondent, and may be long-term or permanent.

The College will maintain the confidentiality of any remedies or actions, provided confidentiality does not impair the College's ability to provide these services.

XII. Timeline

Consistent with timeframes identified herein and where otherwise unspecified, the College will respond to and seek resolution of all reports of Sexual Harassment and Formal Complaints under these Procedures, promptly, as determined by fact and circumstance, and in accordance with federal regulation.

Reasonably prompt timeframes are as follows:

- Grievance Proceedings: 90 to 120 days
 - Investigation Phase: 30 to 40 days
 - Evidentiary Review Phase: 20 to 30 days
 - Determination Phase: 30 to 40 days
 - Appeal Phase: 20 days following the receipt of an appeal
- Adaptive Resolution: 20 to 30 days

The abovementioned reasonably prompt timeframes may vary depending on issues such as the nature, extent, and complexity of the reported conduct, witness availability, law enforcement involvement, and other factors.

The College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to delay the investigation temporarily², the need for accommodations or language assistance, the absence of parties or witnesses, and health conditions. The resolution process will promptly resume as soon as feasible. During such a delay, the Title IX Coordinator will implement and maintain Supportive Measures for the parties as appropriate.

² College action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

If a party chooses not to participate in the Grievance Proceedings or becomes unresponsive, the College reserves the right to continue without their participation to ensure a prompt resolution. Non-participatory or unresponsive parties retain the rights outlined in this Policy and the opportunity to participate in Grievance Proceedings.

The College must balance its commitment to thoroughness against its obligation to resolve matters in a prompt and efficient manner. Parties may request an extension to any deadline identified herein or otherwise set by applicable personnel by submitting a written request. Extensions will be granted on a case-by-case basis and may require proof of extenuating circumstance. Extension requests made after a deadline has passed will generally not be considered.