

Discrimination Grievance Procedures

I. Introduction and Purpose

The purpose of these Discrimination Grievance Procedures ("Procedures"), as set forth below, is to provide prompt and equitable resolution of allegations of Prohibited Conduct as contemplated and prohibited by the College's Discrimination, Harassment, and Retaliation Policy ("Policy").

II. Reporting Prohibited Conduct

The College encourages prompt reporting of conduct that may violate this Policy. Reports of Prohibited Conduct should be made directly to the Student Conduct Officer. There is no time limit for reporting. However, the sooner the Student Conduct Officer receives a report, the better able they will be to respond, investigate, remedy and impose corrective action/discipline, if appropriate.

All Reports of Prohibited Conduct, as described below, or informational requests and inquiries about this Policy or the Procedures, should be made to the Student Conduct Officer:

Helena College C/O Student Conduct Officer
Donaldson Campus, Room 101 D
1115 N Roberts Street
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 Student Conduct Officer can aid in reporting to law enforcement.

III. Preliminary Assessment

This overview describes how Helena College responds to reports of Prohibited Conduct. These procedures are intended to create a consistent framework but to allow the flexibility needed to respond to case specific needs.

Once a report is received from any source (Complainant, third party, etc.), the Student Conduct Officer may proceed with a preliminary assessment, which may include an intake meeting with the Complainant, initial review of evidence and applicable records, and/or consultation with other offices such as academic affairs, student affairs, and human resources administrators. The Student Conduct Officer will also assess each report of Prohibited Conduct to determine whether the incident may have contributed to or may be contributing to a hostile environment for directly impacted parties and other individuals as defined as Harassment in the Policy.

Upon completion of an initial assessment, the Student Conduct Officer may exercise their discretion to close the case without recourse to any Non-Investigative or Investigative Proceedings, as described below. In making this decision, the Student Conduct Officer will consider the following factors:

- Whether the alleged conduct, even if proven, would constitute Prohibited Conduct;

- Whether the alleged conduct is covered by this Policy;
- Whether there is insufficient information to proceed (for example, the identities of the people involved are known);
- Whether a Complainant's request that Formal Investigation and if not, whether that request can be honored; or
- Whether there is a sufficient nexus between the alleged conduct and the College (for example, the conduct occurred in the context of a College program or activity or the affiliation of the parties).

When the reported conduct does not constitute Prohibited Conduct under this Policy but may be conduct prohibited by or addressed by other College policy or policies, the Student Conduct Officer will, if appropriate, refer the matter to another office for review and resolution.

The Student Conduct Officer will close matters after a Preliminary Assessment by issuing a letter to the Complainant if applicable and otherwise documenting the reason for closure.

At the conclusion of the Preliminary Assessment, if the Student Conduct Officer determines that the reported Prohibited Conduct warrants further action under these Procedures, it will proceed either with Non-Investigative Proceedings or by initiating a Formal Complaint and conducting Investigative Proceedings.

IV. Non-Investigative Proceedings

The Student Conduct Officer may proceed with Non-Investigative Proceedings when, in its discretion, such a process is best situated to address the reported conduct. Non-Investigative Proceedings are intended to stop the reported conduct, prevent its escalation or recurrence, and address its effects. Such steps may include, but are not limited to, offering resources, providing supportive measures to the Complainant, providing targeted preventive education (including to the Respondent), and training programs.

Such Non-Investigative Proceedings may be appropriate, for example, if the Complainant alleges Prohibited Conduct by an organization, an individual whose identity is unknown, or a third party, or alleges conduct by multiple people that rises to the level of Prohibited Conduct only when considered in the aggregate.

The nature and extent of any inquiry or responsive steps pursuant to Non-Investigative Proceedings will be determined based on the unique facts and circumstances of the situation. Factors that may influence this determination include, but are not limited to:

- The severity and nature of the alleged conduct;
- The relationship between the parties involved;
- Whether the reported conduct suggests a broader pattern or systemic concern;
- The potential risk of harm to individuals or the campus community;
- The availability and reliability of information or witnesses;
- Whether the impacted individual requests confidentiality or declines further action.

At the conclusion of Non-Investigative Proceedings, the Student Conduct Officer may, in their discretion, issue a memorandum or other guidance document to any parties deemed relevant.

V. Formal Complaints and Investigative Proceedings

The College will not initiate Investigative Proceedings in the absence of a Formal Complaint. A Formal Complaint means a document filed by the Student Conduct Officer alleging Prohibited Conduct by a named Respondent. In appropriate cases, the Student Conduct Officer will designate one or more named Complainants. Upon the filing of a Formal Complaint, the Student Conduct Officer will promptly issue a written notice to the Respondent and any Complainants. The Formal Complaint will be attached to the Notice and incorporated by reference therein.

(A) Interim Action

(1) Student Respondent

Where the Student Conduct Officer 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 Student Conduct Officer may refer the matter to the CARE Team. 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 University 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. The Respondent has the right to appeal any interim action imposed in accordance with the Student Code of Conduct procedures.

(2) Employee Respondent

When, in the judgment of the CRP Office, a matter warrants consideration for interim or administrative action, the CRP Office 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 CRP Office, 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. The Respondent has the right to appeal any interim action imposed, in accordance with the applicable policy governing such actions.

(B) Dismissal

The College may dismiss a Formal Complaint or portion of a Formal Complaint as described below. A Formal Complaint dismissed by the Student Conduct Officer may not be subsequently refiled absent extenuating circumstances, as determined by the Student Conduct Officer. Upon dismissal of a Formal Complaint for any reason, the Student Conduct Officer will promptly send written notice of the dismissal to the Respondent and the Complainant, if one has been designated, including the reason(s) for dismissal, any terms of the dismissal (where appropriate), and the right to appeal as set forth at Section D (6) of these Procedures.

A Formal Complaint or specific allegation contained therein may be dismissed for reasons such as:

- The Respondent is no longer affiliated with the College;
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations;

- Specific circumstances demonstrate that the allegations, even if proven, would not constitute a violation of Prohibited Conduct, or that the alleged conduct no longer falls within the scope of this Policy.

(C) Adaptive Resolution

Nothing in these Procedures limits the right of the Student Conduct Officer and the Respondent to decide on mutually agreed upon terms to fully and finally resolve the allegation(s) contained in the Formal Complaint, which may include mediation, restorative practices, and facilitated dialogue. Any such agreement must be in writing. The Student Conduct Officer retains the authority to determine whether any Adaptive Resolution is sufficient.

(D) Resolution Procedures

(1) Right to an Advisor

The Complainant and Respondent may have an advisor present when they are interviewed and at meetings. They may have a right to other support persons present under other policies. In addition, witnesses may have a support person present at the discretion of the Investigator or in accordance with College policy or a collective bargaining agreement.

The Investigator may restrict the extent and manner of the advisor's participation in the proceedings as long as restrictions apply equally to Complainants and Respondents.

(2) Academic Freedom

When the Formal Investigation implicates academic appropriateness or academic freedom, the Investigator may consult with the appropriate academic officer for relevant academic expertise.

(3) Investigation

The Investigation typically includes interviews with the parties and any relevant witnesses, as well as a review of relevant evidence. The Investigator has the authority to determine the course and scope of the investigation, including the necessity and relevancy of witnesses and evidence. The Investigator may proceed with an investigation whether or not a party chooses to participate.

When interviewing witnesses, the Investigator will share information with witnesses only as reasonably necessary to conduct a fair and thorough investigation. Witnesses will be advised to maintain the confidentiality of any information they receive in order to protect the individuals involved and preserve the integrity of the process. They will also be informed that their identities and the information they provide may be disclosed to the Respondent.

At the conclusion of the Investigation, the Investigator will produce an Investigation Report. The Investigation Report will contain a summary of the evidence. The Respondent and Complainant, if any, will have the opportunity to review the Investigation Report and provide a written response that will be conveyed along with the Investigation Report to the Decisionmaker.

(4) Determination

The Decisionmaker will be provided with the Investigation Report and will objectively evaluate all relevant information contained therein. If the Decisionmaker determines that the investigative record is incomplete, they may direct that the investigation be re-opened to gather additional information.

At the Decisionmaker's discretion, and when deemed necessary and appropriate, the Decisionmaker may convene a live meeting with both parties. This meeting will be conducted virtually, allowing both parties to see and hear each other in real time. During the live meeting, the Decisionmaker may ask relevant and appropriate questions of the parties and any witnesses.

Following the review of the record and any live meeting, the Decisionmaker will issue a written Final Determination. This document will include findings of fact, a determination regarding the Respondent's responsibility or non-responsibility for the alleged Prohibited Conduct, and the rationale for the decision. The determination will be made using the preponderance of the evidence standard.

In the absence of a finding of responsibility or in cases involving an Employee Respondent, the Decisionmaker will share the written determination with the parties, simultaneously. If a Student Respondent is found to have violated one or more provisions of the Policy, the Decisionmaker will complete the Sanction Phase prior to issuance of the written determination, as described below.

(5) Sanctions

(i) Student Respondents

The Decisionmaker and Director of Community Standards are responsible for determining appropriate sanctions against Student Respondents. In determining the appropriate sanctions, the Decisionmaker and Director of Community Standards will be guided by the following considerations:

- The nature, severity of, and circumstances surrounding the violation(s);
- The impact of the Prohibited Conduct on the Complainant (if any);
- The impact of the Prohibited Conduct on the community or the College;
- Whether the Respondent has accepted responsibility for the Prohibited Conduct, 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;
- Consistency with sanctions imposed in comparable matters;
- The necessity of any specific action in order to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects on the Complainant (if any) 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.
- 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, 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.

(ii) **Employee Respondents**

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

When applicable, the Decisionmaker 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 harassment prohibited conduct 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.

(iii) **Respondents who are students and employees**

If the Respondent is a student and employee, the Decisionmaker and Director of Community Standards 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 Decisionmaker will provide the written decision to the College administrator(s) with the authority to impose sanctions in accordance with applicable employment policies, procedures, and collective bargaining agreements, as described above.

(6) Appeals

The Respondent and Complaint (if any) 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 Student Conduct Officer 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 Investigator, Decisionmaker, or any other personnel involved in the proceedings 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 Student Conduct Officer 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 Student Conduct Officer reserves the right to submit a written statement in response to any appeal submission.

Once the Student Conduct Officer has received the written statements or such deadline has expired, the Student Conduct Officer will provide to the Appellate Officer: (1) written statements submitted by the parties and any response made by the Student Conduct Officer; (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 Student Conduct Officer. The Student Conduct Officer 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.

VI. Remedies

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

These remedies/actions may include but are not limited to: restoring a Complainant's (if any) 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.