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Area Human Resources

Sex Discrimination (Title IX) 2024

POLICY #1.39

Policy Name: Sex Discrimination (Title IX) 2024 Policy

Policy Responsible Department: Human Resources Effective Date: August 1, 2024

Policy # 1.38 is applicable to all incidents occurring before August 1, 2024

I. SCOPE

With the effective date of August 1, 2024, this policy applies to all Philadelphia College of Osteopathic Medicine ("PCOM" or "College") faculty, staff, employees, students (collectively "Community Members"), and all volunteers, visitors, vendors, alumni and contractors ("Third Parties") for actions taken on or after August 1, 2024. For actions taking place prior to that time, Policy #1.38 Sexual Harassment (Title IX) applies and will be processed utilizing those procedures.

II. OFFICIAL COLLEGE POLICY

With the effective date of August 1, 2024, this policy applies to all Philadelphia College of Osteopathic Medicine ("PCOM" or "College") faculty, staff, employees, students (collectively "Community Members"), and all volunteers, visitors, vendors, alumni and contractors ("Third Parties") for actions taken on or after August 1, 2024. For actions taking place prior to that time, Policy #1.38 Sexual Harassment (Title IX) applies and will be process utilizing those procedures.

III. POLICY STATEMENT

PCOM is committed to providing Community Members and Third Parties with an environment free from sexual harassment, sex-based discrimination and gender based violence. This policy is managed by the Equity and Title IX Manager (Title IX Coordinator), the Chief Human Resources Officer and PCOM President. PCOM is committed to monitoring the College's educational programming and activities for concerns, obstacles or barriers to reporting Sex Harassment/Discrimination and work to address any such concerns, obstacles or barriers to

reporting.

IV. DEFINITIONS

Adequate Notice: The College's duty to act under Title IX is triggered when it has Adequate Notice of conduct that may be a violation of this policy through the reporting process. This Adequate Notice occurs when a Responsible Employee has information about conduct that reasonably may constitute a violation of this policy. Responsible Employees are required and must report conduct that may constitute sexual harassment/discrimination to the College's Equity and Title IX Manager (Title IX Coordinator) or the Chief Human Resources Officer. Additional Responsible Employee reporting is contained herein.

Clear and Convincing Evidence Standard: Having confidence that a conclusion is based on facts that are highly probable to be true. This standard will be used when evaluating evidence and facts presented under this Policy.

Complainant: Complainant is an employee or student who is reported to be the victim of conduct that could constitute sexual harassment/discrimination under this Policy regardless of whether the individual makes a report or participates in the Title IX process. A Complainant may also be a person other than a student or employee who is reported to have been subjected to conduct that could constitute sex discrimination/harassment under this policy and who was participating or attempting to participate in the College's educational programs or activities at the time of the reported sex harassment/discrimination.

Consent: An affirmative decision to engage in mutually agreed upon sexual activity and is given by clear words or actions. Consent may not be inferred from silence, passivity or lack of resistance alone. Furthermore, consent to one form of sexual activity does not imply consent to other forms of sexual activity and the existence of a current or previous dating, marital or sexual relationship is not sufficient to constitute consent to additional sexual activity. Assent shall not constitute consent if it is given by a person who, because of youth, disability, intoxication or other condition, is unable to lawfully give his or her or their consent. Engaging in sexual activity with an individual who one knows or reasonably should know to be incapacitated, e.g. if an individual cannot make rational, reasonable decisions because they lack the ability to give knowing Consent, is a violation of this policy. When evaluating intoxication, being intoxicated or otherwise impaired by alcohol or other drugs will never function as a defense for any behavior that violates this policy.

Where alcohol or drugs are involved, incapacitation is a state beyond intoxication. Evaluating the absences of consent because of incapacitation requires an assessment of whether the Respondent knew or should have known of the Complainant's incapacitation from the perspective of a sober, reasonable person in the Respondent's position.

Personal Support Counselors: Staff members who are employed by PCOM as a resource and support for all PCOM students. Reports of sexual harassment made to Personal Support Counselors are confidential to the extent permitted by law, and therefore do not trigger PCOM's mandatory reporting responsibility to issue a timely warning to incidents reported that are confirmed to pose a substantial threat of bodily harm or danger to Community Members. Personal Support Counselors shall notify any individual reporting any such potential violations of the policy how to contact PCOM's Equity and Title IX Manager (Title IX Coordinator) to make a complaint. Personal Support Counselors are also obligated to provide information about the Equity and Manager (Title IX Coordinator)s' ability to provide supportive measures, informal resolution processes and investigation as outlined in the Policy.

Nothing in this section impacts the Personal Support Counselors' obligation to report

information in compliance with the Clery Act or other safety reporting obligations.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. The College presumes that the Respondent is not responsible for the reported Sex Harassment/Discrimination until a determination is made at the conclusion of its grievance procedures.

Responsible Employees: All PCOM employees are considered responsible employees who are mandated to report any information they receive about instances of sexual harassment. Please see reporting obligations more fully defined herein.

Sexual Harassment: Conduct on the basis of sex that meets one or more of the following: (1) An employee of the College conditioning the provision of an aid, benefit, or service of the College 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 College's education program or activity. (3) Sexual Assault as defined in 20 U.S.C. 1092 (f) (6) (A) (V), dating violence as defined in 34 U.S.C. 12291 (a) (10), domestic violence as defined in 34 U.S.C. 12291 (a) (8), and stalking as defined in 34 U.S.C. 12291 (a) (30). See Appendix A for the Sexual Harassment conduct and definitions listed above.

Student: A student is an individual who has gained admission to the College. Admission includes part-time, full-time, special, transfer, exchange or other types of enrollment, membership or matriculation in or at an education program or activity operated by the College. Student status lasts until an individual graduates, is suspended or expelled, or is not in attendance or enrolled for two complete, consecutive terms. The College reserves the right to administer this policy and procedure with any and all complaints regardless of student status, withdrawal from the College or as a result of disciplinary action removing the Student from the definition contained herein.

V. JURISDICTION

This policy applies to reported sexual harassment/discrimination that occurs under the College's education program or activity, against a person in the United States. Such conduct includes but is not limited to reported sex harassment/discrimination that occurs in any building owned or controlled by a student organization that is officially recognized by the College, and conduct that is subject to the College's disciplinary authority.

This policy applies to address a sex-based hostile environment under the College's education program or activity, even when some conduct reported to be contributing to the hostile environment occurred outside of the United States or outside of the College's educational program or activity.

VI. TITLE IX PROVISIONS

Title IX of the Education Amendments of 1972 ("Title IX") prohibits discrimination on the basis of sex in any educational programs or activities that receive federal funding, whether they take place in the facilities of a school or at an event sponsored by the school at another location. As a recipient of federal funding, the College is required to comply with Title IX. The Office of Civil Rights of the US Department of Education ("OCR") is responsible for overseeing compliance with Title IX regulations to help institutions comply with its principles. This policy is managed by the Equity and Title IX Manager (Title IX Coordinator), the Chief Human Resources Officer and PCOM President. This policy is reviewed annually.

VII. REPORTING

Information received in connection with the reporting, investigation and resolution of

allegations under this policy will be treated as confidential and will only involve individuals the PCOM determines are necessary to conduct an appropriate investigation, to provide assistance and resources to the individuals involved or impacted, to perform other necessary and appropriate PCOM functions, to provide necessary reporting as required under regulations or governance documents, or when the PCOM is required to provide information through a legal obligation.

PCOM is authorized to share information, upon prior written consent of a persons with the legal right to consent, to disclose, disclosure to authorized legal representatives, and as otherwise required for compliance with federal, state, or local laws governing privacy.

A person who is both a student and an employee must report conduct that reasonably may be violative of this policy when the person is informed of such conduct in their capacity as an employee.

A. Reporting to PCOM

The College encourages all individuals who believe they have experienced or witnessed sexual harassment/sex discrimination to report allegations to PCOM in good faith. College employees who are not acting Confidential Employees (as defined in your job description) must report information about conduct that reasonably may constitute Sex Harassment/Discrimination. Reports of sexual harassment may be made to the College via:

1. Equity and Title IX Manager (Title IX Coordinator)
2. Title IX Deputies on each campus:
 - **PA:** Michael Lombardo, Executive Director of Student Affairs, (215) 871 -6785, michaello3@pcom.edu.
 - **GA:** Kimberly Lopez, Equity Coordinator, (770) 682-2301, kimberllo@pcom.edu
 - Patience Mason, Chief Student Affairs Officer, (678) 225-7534, patiocema@pcom.edu.
 - **S GA:** Heidi Browning, Assistant Director of Public Safety, (229) 668-3292, heidibr@pcom.edu
 - Jerry Keeton, Senior Associate Director of Student Affairs, (229) 668-3131, jerryke@pcom.edu.Additionally trained parties include:
David Elcock, Executive Director of Human Resources, (215) 871-6502, davidel2@pcom.edu.
Christina Mazzella, Chief Human Resources Officer, (215) 871-6503, christinamaz@pcom.edu.

3. PCOM Hotline at 844-337-3613;
4. pcom.ethicspoint.com;
5. Completing the form at: pcom.edu/title-ix; or
6. Online at website: <https://www.pcom.edu/title-ix/>

Anonymous Reporting: Reports of sexual harassment may be made anonymously to PCOM through any of the above-listed means. To keep the

report anonymous, do not include any identifying information (such as name, email, etc.). Because of the College's obligation to maintain a safe environment for all members of the College community, the College may pursue an investigation of an anonymous report to the extent possible. However, if the complainant wishes to remain anonymous, the College's ability to investigate and respond may be limited.

B. Reporting to Law Enforcement

In the event of an emergency, including physical danger or physical injuries, which require immediate attention, an individual should call 911 for immediate help. In addition to emergency or urgent reporting via 911, reports may be made to law enforcement as follows:

Philadelphia, PA:

Philadelphia Special Victims Division (PA)
(215) 685-3251 or the precinct where the incident occurred.

Suwanee, GA:

Gwinnett County Police Department (GA) (770) 513-5700

Moultrie, GA:

Moultrie Police Department (GA)
(229) 985-3131

A report to law enforcement does not trigger notification to PCOM. If a complainant wishes to report an incident to law enforcement and PCOM, please refer to PCOM reporting options listed in Section VI (A) of this policy.

C. Reporting to Outside Agencies

A person may file a complaint with the appropriate federal, state, or local agency within the time frame required by law. Depending upon the nature of the complaint, the appropriate agency may be the federal Equal Employment Opportunity Commission (EEOC), Office for Civil Rights (OCR) of the U.S. Department of Education, the Department of Justice, and/or the appropriate state agency in either Georgia or Pennsylvania.

State and Local

Philadelphia Commission on Human Relations:

601 Walnut Street, Suite 300 South, Philadelphia, PA, 19106 phcr@phila.gov

Ph: 215-686-4670

Georgia Commission on Equal Opportunity:

7 Martin Luther King, Jr. Dr. SE, Suite 351 – Agriculture Building, Atlanta, GA 30334

Ph: 800-473-6736

Pennsylvania Human Relations Commission (PHRC): 101 S. Second Street, Suite 300
Harrisburg, PA 17101

Ph: 717-787-4410

Equal Employment Opportunity Commission (EEOC):

Georgia:

100 Alabama Street SW, Suite 4R30 Atlanta, GA 30303

Ph: 800-669-4000

Pennsylvania:

801 Market Street, Suite, 1300

Philadelphia, PA 19107-3127

Ph: 800-669-4000

pdocontact@eeoc.gov

Department of Education - Office of Civil Rights (OCR):

Georgia:

61 Forsyth Street S.W., Suite 19T10 Atlanta, GA 30303-8927

Ph: 404-974-9406

OCR.Atlanta@ed.gov

Pennsylvania:

100 Penn Square East, Suite 515

Philadelphia, PA 19107-3323

Ph: 215-656-8541

OCR.Philadelphia@ed.gov

Assistant Secretary for Civil Rights Office for Civil Rights:

National Headquarters

U.S. Department of Education

Lyndon Baines Johnson Dept. of Education Building 400 Maryland Avenue, SW

Washington, DC 20202-1100

Telephone: 800-421-3481

Fax: 202-453-6012

TDD: 800-877-8339

OCR@ed.gov

D. Timely Warnings

Individuals who experience sexual harassment should be aware that the College must issue immediate timely warnings of incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to Community Members. The College will make every effort to protect confidentiality to the maximum extent possible, while still providing enough information for Community Members to make safety decisions in light of the circumstances.

E. Student Amnesty for Violation of Alcohol and/or Drug Use

To encourage the reporting of sexual harassment, PCOM will not discipline student complainants, respondents, or witnesses for their personal consumption of drugs or alcohol at or around the time of the alleged conduct, where such consumption did not place at risk the health or safety of another person. The College also has the discretion to grant amnesty for other minor conduct violations by student complainants, respondents, and witnesses at or near the time of an incident, where granting amnesty is likely to encourage reporting or a more complete response from a party or witness during an investigation. Amnesty decisions regarding minor conduct violations will be made by the Equity and Title IX Manager (Title IX Coordinator) in consultation with the Compliance Officer. PCOM may impose educational remedies to address and prevent incidents of drug or alcohol use, or in response to minor conduct violations, including in instances where amnesty has been granted.

F. Mandated Reporting by PCOM Employees, Faculty and Staff

The College considers all faculty, staff and employees to be Responsible Employees who are mandated to promptly report to the Equity and Title IX Manager (Title IX Coordinator), Chief Human Resources Office or Compliance Officer any information

they receive about sexual harassment, including sex discrimination, sex based harassment, sex assault, dating violence, domestic violence, or Stalking in violation of this policy. Responsible Employees who become aware of any conduct prohibited by this policy must report promptly to the Equity and Title IX Manager (Title IX Coordinator) the names of the parties and any witnesses, as well as the date, time, location, and nature of the incident. The faculty, staff or employee should only report what they know and shall not investigate on their own. Failure to make a mandated report or an investigation by faculty without reporting to the Equity and Title IX Manager (Title IX Coordinator), Chief Human Resources Officer or Compliance Officer as a Responsible Employee may result in disciplinary action.

G. **Retaliation**

Retaliation is any material adverse education or employment action taken against a person because of a person's participation in an investigation or reporting of a complaint under this policy. Retaliation against an individual for making an allegation of sexual harassment, for cooperating in an investigation of a complaint or for not cooperating in the investigation with the intended purpose to interfere with any right or privilege secured under Title IX is prohibited and a violation of this policy.

Retaliation and intimidation can take many forms, including but not limited to, continued abuse or violence, threats and intimidation. Any individual or group of individuals, not just a complainant or respondent, can engage in retaliation. The College

may require an employee or other agent of the College to participate as a witness in, or otherwise assist with an investigation, hearing or other portions of procedural matters as outlined in this policy. This participation is as a condition of employment and is not retaliation.

Anyone who believes that they have been retaliated against for making a complaint or for cooperating in an investigation or hearing should immediately contact the Equity and Title IX Manager (Title IX Coordinator), a Deputy Title IX Coordinator, or the Compliance Officer.

H. **COMPLAINT FILING**

Who may file?

The right to make a complaint of Sex Discrimination under Title IX is limited to the following:

- A Complainant;
- A parent, guardian or other authorized legal representative entitled to legally act on behalf of the Complainant; or
- The Title IX Coordinator (Equity and Title IX Manager). The Title IX Coordinator may file a Complaint if a person entitled to file a Complaint do not wish to do so, after review of the below factors.

Filing by Title IX Coordinator (Equity and Title IX Manager). When determining whether to file a Complaint, the Equity and Title IX Manager (Title IX Coordinator) will consider the following factors:

- Whether Complainant does not wish to file a Complaint and why;
- Complainant's reasonable safety regarding the filing of a Complaint;

- Risks to the institution and community if a Complaint is not initiated;
- The severity of the reported actions and impact it would have on others;
- The age and relationship of the parties, including whether the Respondent is an employee of PCOM;
- Whether there are multiple persons impacted by the alleged behavior violative of the policy;
- The availability of evidence to proceed with an investigation; and
- Whether PCOM could end the reported Sex Discrimination and prevent future behavior without initiating an investigation.

If the Equity and Title IX Manager (Title IX Coordinator) determines that the conduct reported presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as reported prevents PCOM from providing equitable access, on the basis of sex, to education programs or activities at PCOM, the complaint may be initiated by the Equity and Title IX Manager (Title IX Coordinator).

As a condition of filing, the Equity and Title IX Manager (Title IX Coordinator) will notify the Complainant prior to the filing and discuss Complainant's reasonable concerns for safety or safety of others, including providing possible supportive measures.

For Complaints of Sex Discrimination other than sex-based harassment, in addition to the people listed above, the following persons have the right to make a Sex Discrimination complaint:

- Any student or employee; or
- Any person other than a student or employee who was participating or attempting to participate in PCOM's education program or activity at the time of the reported Sex Discrimination.

It is within PCOM's discretion to consolidate Complaints of Sex Discrimination against more than one Respondent, or more than one Complainant or by one party against another, if the underlying allegations of Sex Discrimination arise out of the same facts or circumstances.

I. REPORTING AND INTAKE

1. Upon receipt of a report of alleged sexual harassment, the College will address safety concerns that may be present and provide the complainant with information for on and off-campus resources. The complainant will also be provided an overview of the College's procedures for resolving allegations covered by this policy.
2. The Equity and Title IX Manager (Title IX Coordinator) or designee conducting the intake process will discuss with the complainant preliminary details about the alleged misconduct to assess whether the matter falls within the College's jurisdiction
3. The Equity and Title IX Manager (Title IX Coordinator) or designee will communicate to the complainant in writing the decision regarding next steps for informal or formal procedures, in addition to offering supportive measures.

I. ADVISORS

Both complainants and respondents may have an advisor to support them through the Title IX process. Advisors are expected to make themselves available for scheduled interviews and

meetings, though the College may, in its discretion, take into consideration reasonable scheduling difficulties of an advisor. Advisors who become disruptive during the process will receive a warning and may be asked to leave interviews or meetings.

If either party does not have an Advisor, the College will provide one upon written request to the Equity and Title IX Manager (Title IX Coordinator).

II. SUPPORTIVE MEASURES

1. **Supportive Measures.** Upon receipt of a report of sexual harassment, the College may provide reasonable and appropriate supportive measures designed to preserve the safety of all parties involved and the College community as a whole, maintain the integrity of the investigative and resolution process, and deter possible retaliation. The College may provide supportive measures regardless of whether the student seeks to engage in the College's internal processes. Any supportive measures will be coordinated by the Equity and Title IX Manager (Title IX Coordinator). Such remedies may include, but are not limited to, "no contact" orders, referrals to campus and community services, change in reporting relationships, consideration of leave requests, academic support and/or assistance with academic petitions, modifications of works/class schedules, housing changes and changes in academic schedule. Other options may be considered as appropriate and feasible. Any remedies approved will be reviewed and modified as conditions warrant. All supportive measures are non-punitive and non-disciplinary.
2. **Campus Wellness Support Measures.** Individuals who have experienced or witnessed sexual harassment are encouraged to seek emotional support as soon as possible, either on or off-campus. On-campus resources for students include personal support counselors on each campus, who can be accessed by contacting the Student Affairs Office. Community members can also access Carebridge Counseling Services, 24 hours a day, 7 days a week. Counselors are trained to provide crisis intervention and provide referrals for longer-term care as necessary. Carebridge can be reached at: 800-437-0911 or online at myliferesource.com, access code: R5SAF.

Community Resources are available to support PCOM Community members:

Moultrie, GA:

MOSAIC: mosaicgeorgia.org 866-900-6019 (24 hour hotline)

Philadelphia, PA:

Victim Services Center, victimservicescenter.org

888-521-0983 (24 hour hotline, Montgomery County)

WOAR – Philadelphia Center Against Sexual Violence woar.org

215-985-3333 (24 hour hotline, Phila. County)

Suwanee, GA:

The Haven: valdostahaven.org 800-334-2836 (24 hours hotline)

I. COMPLAINANT AND RESPONDENT RIGHTS SUPPORT GUIDELINES

PCOM will provide both the complainant and respondent a list of their rights and support guidelines while engaged in reporting and resolution process associated with this policy. Where it is alleged that a Third Party committed sexual harassment, a complaint may be made to the Equity and Title IX Manager (Title IX Coordinator), who will evaluate the complaint in consultation with the Compliance Officer to determine appropriate steps.

II. RESOLUTION PROCESS

A. Informal Resolution Process

The informal resolution process is not applicable when a formal written complaint is brought against an employee by a student.

In some instances, complainants who believe they have experienced sexual harassment may wish to take action regarding the conduct, by means other than a formal resolution process. Either party may request, or the Equity and Title IX Manager (Title IX Coordinator) may suggest, use of the informal resolution process. Informal resolution may encompass a range of conflict resolution strategies including but not limited to arbitration and mediation. Informal resolution can result in disciplinary measures as an outcome.

To proceed with the informal resolution process, the complainant must first submit a formal written complaint. All parties must provide voluntary, written consent to the informal resolution process. The Equity and Title IX Manager (Title IX Coordinator) will provide written notice regarding the allegations, the requirements of the informal resolution process, and details on the outcome of the process and record retention. PCOM retains the option to conduct the informal resolution process internally or through an outside third party.

At any point in the informal resolution process either party may withdraw from the informal process by notifying the Equity and Title IX Manager (Title IX Coordinator) in writing and reconvene under the formal resolution process.

B. Formal Resolution Process

1. **Review of the Formal Complaint:** The Equity and Title IX Manager (Title IX Coordinator) will review the formal written complaint to determine if the complaint falls under jurisdiction of Title IX. If the Equity and Title IX Manager (Title IX Coordinator) determines that the complaint does not fall under Title IX, the Compliance Officer will be notified to assess for PCOM Code of Conduct or policy violations, as applicable.
2. **Complaint Dismissal:** PCOM, in its sole discretion, may dismiss the Complaint and stop the investigation if a.) notified by Complainant that they wish to withdraw the complaint and the Equity and Title IX Manager (Title IX Coordinator) determines that it will not proceed with the Complaint if the conduct that remains would not constitute Sex Discrimination even if proven; b.) the Respondent is no longer employed, enrolled or otherwise attached to PCOM; c.) PCOM is unable to identify the Respondent after reasonable steps have been taken; or d.) the reported conduct would not constitute Sex Discrimination, if proven. If the Complaint is dismissed, PCOM will offer supporting measures to the Complainant and Respondent, if notified, and take other necessary steps to resolve issues to ensure that future discriminatory behavior will not occur.

Notices to the Parties: If the Equity and Title IX Manager (Title IX Coordinator) determines that the College will move forward with an investigation, the Equity and Title IX Manager (Title IX Coordinator) will notify the parties in writing of the College's decision to move forward with an investigation. The parties will be informed of the allegation(s) that will be investigated, the requirements of the process, whether formal or informal, how the information will maintain information concerning the allegations and the burden of proof falls on the College and there is a presumption of innocence during the formal resolution process.

3. **Investigation:** If an eligible person under this policy elects to file a Complaint, the Equity and Title IX Manager (Title IX Coordinator) will provide written notice to Respondent within ten (10) calendar days of the following:

- Sufficient information at the time to allow a response to the allegations, including the names of parties involved in the alleged incident, the conduct, dates and location of the reported incident;
- Presumption that they are not responsible for the policy violation;
- All parties are entitled to an Advisor of their choice;
- All parties can inspect and review evidence that is presented;
- False statements made in bad faith are prohibited by this policy and may result in disciplinary action as found in applicable Code of Conduct (note that a non-finding of a policy violation is not equivalent to finding that Complainant acted in bad faith);
- All applicable Title IX guidelines, policies and procedures;
- Equal opportunity and access of all parties to the relevant and not otherwise impermissible evidence involved with the Complaint;
- And Retaliation is prohibited.

If PCOM, at its discretion, determines that it is necessary to investigate additional allegations of Sex Discrimination that are not included in the notice provided or that have been consolidated from other actions, PCOM shall provide notice to all parties of the additional allegations, evidence and other necessary information.

Appoint Investigator: PCOM will appoint at least one trained investigator to conduct an investigation of the complaint, who may be a Deputy Coordinator, or another qualified investigator. The parties will have an equal opportunity to identify witnesses and provide relevant evidence. The burden is on PCOM – not the parties – to conduct an investigation that gathers sufficient evidence to determine whether Sex Discrimination/Sex Harassment occurred.

Scope of Investigation: The Investigator may interview the

Complainant, Respondent and any relevant witness. Investigator will request from each party relevant witnesses, as well as other relevant information or evidence when available and appropriate. This information must be provided to the Investigator in a timely manner to allow a swift, reasonable timeframe for resolution.

Rights of Complainant and Respondent during the Investigation. Neither Complainant nor Respondent are required to participate in the investigation process, though recommended by PCOM. Both Complainant and Respondent will: a.) receive notice of allegations before participating in an interview with sufficient time to prepare for meaningful participation; b.) present relevant information to the investigator – including witnesses and evidence; c.) a process with reasonable timeframes -with the intention of a prompt resolution of matters, allowing for extensions granted for good cause only; d.) receive timely and equal access to any relevant information, documentation and evidence gathered during the investigation; e.) adequately trained investigators, are familiar with the applicable policies and procedures, and who do not have a conflict of interest or bias to a party; f.) each party has an Advisor of their choosing, who may be an attorney, advocate or other support person who is not a potential witness in the investigation or could otherwise compromise the investigation; g) written notice of all necessary details for all hearings, interviews, or other meetings to all parties whose participation is invited or expected with at least five (5) business days' notice for the party to prepare to participate; and h.) credibility determinations free from status in the Investigation.

Investigative Report. The appointed investigator will objectively evaluate all relevant evidence without prejudgment of the facts at issue. The investigator will protect each party's privacy by requiring written consent before using medical, psychological, or similar treatment records during the investigation.

The investigator will prepare an investigative, written report that describes the investigation and material information obtained. Prior to the finalization of the investigative report, the complainant and the respondent will be afforded time to review the draft report, along with relevant, admissible, non-privileged evidence and have 10 (ten) business days to provide a written response. Included in the report will be all evidence directly related to the allegations, even if the Investigator does not intend to rely on the evidence in making the determination. The investigator will consider these responses in the final report. The written response from the parties will be included with the final report from the investigator. The investigator's final report may include a reply to the parties' written response. The investigator will create a final report and provide the parties, and their advisors, access to the final report and relevant, admissible, non-privileged evidence 10 (ten) business days prior to the start of the hearing. PCOM will complete the investigation within sixty (60) days of issuance of the notice of investigation, or will provide updated timeframe requiring an extension, including the reason for the extension.

Unauthorized Disclosure: PCOM will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the investigative/hearing process. Investigative materials and all information related to the Complaint will be shared with parties and advisors with strict access limitations to prevent unauthorized disclosure of information. Any party or advisor who has been found to have violated confidentiality related to sharing of information and evidence will be subject to disciplinary sanctions, including, if not an employee or student, removal as the Advisor.

1. **Hearing:** A live hearing will be scheduled at a mutually agreeable time for all parties. PCOM will conduct live hearings in person or can host the hearings through virtual means, if requested by either party. The live hearing will occur where each party can be present with their advisor. The live hearing will be recorded and saved for seven years per the Department of Education retention requirements.

The intention of the hearing is to allow the parties the opportunity to present their side of the issues, participate in questioning and for the Decision Maker to determine whether the Respondent is responsible

or not responsible for a violation of this policy. The hearing will include a head decision maker who will ask the questions of each party throughout the live hearing. The head decision maker will determine relevancy of all questions and evidence. The Head Decision maker will explain any decision to exclude a question as not relevant or otherwise impermissible. The Decision Maker will give a party an opportunity to clarify or revise a question that the Decision Maker determines is not relevant or is impermissible, allowing the question to be asked if sufficiently clarified and/or revised.

Hearings are not legal proceedings and do not follow courtroom procedure or formal rules of evidence. Hearings are not open to the public.

The Decision Maker will not draw an inference about whether Sex Discrimination occurred based solely on a party's or witnesses' refusal to respond to a question.

It is the responsibility of the Decision Maker to question parties and witnesses to adequately assess a witnesses' credibility, if in dispute and relevant, to evaluating one or more allegations. The character of the Complainant, Respondent, and Witnesses in the hearing is not relevant. Prior sexual history of the parties, other than to each other, is not relevant.

Questioning Process: In an effort to determine relevant facts, including credibility, PCOM shall authorize either the Investigator or Decision Maker to ask relevant questions during individual meetings with a party of witness, with each party authorized to propose such questions that the relevant party wants asked.

During the live hearing, questions regarding a complainant's prior sexual history will not be allowed as part of any questioning or cross examination.

2. **Determination:** At the conclusion of the hearing, the head decision maker will review all information and decide using a clear and convincing evidence standard whether the respondent is responsible or not responsible for the allegations. A decision shall be made by the Decision Maker within ten (10) business days after the conclusion of the hearing. If the Decision Maker is not persuaded under the applicable standard by the evidence that Sex Discrimination occurred, whatever the quantity of evidence, the Decision Maker will not determine that Sex Discrimination occurred.

After a determination is made by the Decision Maker, the parties shall be notified simultaneously in writing of: a.) description of the alleged sex discrimination that occurred; b.) information of applicable PCOM policies and procedures evaluated; c.) evidence evaluated by the Decision Maker; d.) whether Sex Discrimination occurred; e.) rights to appeal by the parties; and f.) if finding of Sex Discrimination by the Decision Maker, sanctions to be imposed on Respondent or other remedies to be provided by PCOM.

Responsibility for Coordination of Remedies. If there is a finding of Sex Discrimination under this policy, it is the obligation of the Equity and Title IX Manager (Title IX Coordinator) to provide the following: a.) coordinate the provision and implementation of remedies to the Complainant and other impacted person identified by PCOM; b.) coordinate imposition of any disciplinary sanctions on Respondent, including notice of said sanctions to the Complainant; c.) take all other necessary steps to ensure the Sex Discrimination does not recur or continue; d.) comply with process and procedure for sanction imposition; and e.) not discipline a party, witness or other participating in the Title IX process for making a false statement or for engaging in consensual sexual conduct based solely on the determination

whether Sex Discrimination occurred. Nothing in this provision, however, precludes PCOM from bringing false reporting claims for false statements not stemming from determination of non-finding of Sex Discrimination.

3. **Sanctions:** If a determination is made that the respondent is responsible for a policy violation, the Equity and Title IX Manager (Title IX Coordinator) will impose appropriate sanctions on the Respondent within 30 calendar days after receipt of written final decision made by Decision Maker. Violations of this policy may result in the imposition of a full range of sanctions up to and including separation and dismissal.
 4. **Written Notice of Outcome and Remedies:** Within ten (10) business days of the date of the determination decision, PCOM will provide the parties with concurrent written notice of the outcome of the live hearing. The notice of outcome will include an explanation of how and why the decision maker reached their conclusions. The complainant will receive notice of any sanctions imposed on the respondent that directly relate to the complainant. Following the outcome, further supportive measures may be put into place.
 5. **Appeal Procedure:** Either party may file a written appeal within ten (10) business days of the date of the written outcome on one of the following grounds: (a) there was a procedural irregularity that affected the outcome of the matter; (b) there is new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; (c) The Equity and Title IX Manager (Title IX Coordinator), investigator, or decision-maker 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; or (d) the penalty is inadequate or excessive. The written appeal should be sent to the Equity and Title IX Manager (Title IX Coordinator) who will coordinate the appeals process with the appeals officer. The Equity and Title IX Manager (Title IX Coordinator) will notify the other party that an appeal has been filed and provide the other party with five business days to respond, if desired. The appeals officer will decide the appeal within 20 calendar days of the date of the written appeal. The Equity and Title IX Manager (Title IX Coordinator) will provide concurrent written notice of the outcome of the appeal to both parties within this time frame. The decision of the appeal officer is the final decision of the College.
The College must provide an opportunity for an appeal to both parties when a formal complaint is dismissed. A party may go through the above outlined appeal process after the dismissal of a formal complaint.
- A. **Temporary Process Delays:** If at any time the complaint, respondent or PCOM needs to, in good faith, delay the proceedings; timely notification will be made to all parties regarding the need for suspension of the informal or formal resolution process. Such reasons may include but are not limited to: the absence of a party, a party's advisor or witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. A plan for resuming the process will be communicated in a timely manner to all parties.
 - B. **Disability and Religious Accommodations:** Complainants, respondents, or witnesses who require disability and/or religious accommodations to participate in the formal or informal resolution procedures under this policy, or to make a report, should notify the Equity and Title IX Manager (Title IX Coordinator), who also serves as PCOM's ADA/Section 504 Coordinator. Individuals in need of accommodation should ensure that sufficient notice is provided to the Equity and Title IX Manager (Title IX Coordinator) to permit the evaluation of the request and

related documentation.

- C. **Conflicts of Interest:** Any concerns regarding conflicts of interest for administrators designated to execute aspects of this policy should be brought to the attention of the Equity and Title IX Manager (Title IX Coordinator), the Compliance Officer, or the Chief Human Resources Officer. Any administrator or the supervisor of any administrator with responsibilities for implementing this policy may designate another administrator to carry out those responsibilities, where necessary, to address a conflict of interest.

APPENDIX A

Sexual Harassment Conduct and Definitions

Sexual Harassment: Conduct on the basis of sex that meets one or more of the following: (1) An employee, agent or person authorized by the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct; (2) Unwelcome sex-based conduct, that based on the totality of the circumstances, is subjectively and objectively offensive and is so severe, pervasive, and objectively offensive that it limits or denies a person's ability to participate in or benefit from the College's education program or activity. (3) Sexual Assault as defined in 20 U.S.C. 1092 (f) (6) (A) (V), dating violence as defined in 34 U.S.C. 12291 (a) (10), domestic violence as defined in 34 U.S.C. 12291 (a) (8), and stalking as defined in 34 U.S.C. 12291 (a) (30) and herein.

The below conduct and definitions are provided for reference. If there is a discrepancy between the definitions below and the definitions as stated in the current applicable regulation, the College will apply the definition as stated in the current applicable regulation.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence: A felony or misdemeanor crime of violence committed:

- By a current or former spouse or intimate partner of the victim;
- By a person with whom the victim shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
- By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Pregnancy: Pregnancy or related conditions are defined as:

- Pregnancy, childbirth, termination of pregnancy, or lactation;
- Medical conditions related to pregnancy, childbirth, termination of pregnancy or lactation;

- Recovery from pregnancy, childbirth, termination of pregnancy or lactation.

Sexual Assault: Sex Offenses that include Rape, Sodomy, Sexual Assault with an Object, or Fondling directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent; also unlawful sexual intercourse.

- *Rape (Except Statutory Rape)*- The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
- *Sodomy*—Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
- *Sexual Assault With An Object*—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
- *Fondling*—The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
- *Incest*—Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- *Statutory Rape*—Non-forcible sexual intercourse with a person who is under the statutory age of consent.

Sex Discrimination

Sex Discrimination under this policy includes discrimination on the basis of:

- Sex stereotypes;
- Sex characteristics;
- Pregnancy or related conditions;
- Sexual orientation, and;
- Gender Identity.

Stalking: is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress.
For the purposes of this definition:
- Course of conduct means acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

- Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

Approval Signatures

Step Description	Approver	Date
Cabinet Approval	Christina Mazzella: Chief Human Resources Officer	08/2024
Department Approval	Christina Mazzella: Chief Human Resources Officer	08/2024
Policy Owner	Alina Torres-Zickler: Equity and Title IX Manager	08/2024

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