

Hagerstown Community College
Title IX Sexual Misconduct Policy and Procedure
Revised August 14, 2020
(updated per Department of Education regulations issued May 6, 2020)

INTRODUCTION

Hagerstown Community College (HCC) is an academic community committed to providing a working and learning environment free from sexual misconduct. **Sexual misconduct is an umbrella term used at Hagerstown Community College that encompasses various types of prohibited conduct including sexual harassment, sexual discrimination, sexual assault, dating violence, domestic violence, and stalking.** HCC will not tolerate sexual misconduct and has implemented specific measures to strongly encourage and support the reporting of sexual misconduct and to ensure that all allegations of sexual misconduct are investigated and resolved in a timely, discreet, fair, and impartial manner and in accordance with Federal Title IX and Clery Act regulations and Maryland Education Article 11-601.

This Title IX *Sexual Misconduct Policy and Procedure* outlines HCC's commitment to address this prohibited conduct, the procedures for investigating and resolving complaints and the resources available to both a complainant and a respondent. In order to maintain an environment free of sexual misconduct, HCC utilizes educational and prevention programming and makes training opportunities available to all employees and students.

This Title IX Sexual Misconduct Policy and Procedure applies to all members of the College community and to sexual misconduct occurring during Hagerstown Community College educational activities and programs, including the following:

- On Hagerstown Community College premises, in any College facility or on College owned or controlled property
- At any Hagerstown Community College sponsored, recognized, or approved program, visit, or activity, regardless of location
- In any building owned or controlled by a Hagerstown Community College group that is officially recognized by the College
- At locations, events and circumstances over which Hagerstown Community College exercises substantial control over both the complainant and respondent's behavior and the context in which the sexual misconduct occurs
- That limits equal access to any Hagerstown Community College education program or activity, negatively impacts the education or employment of a member of the College community, and that may threaten the safety and/or health of any member of the College community.

SEXUAL MISCONDUCT POLICY

Policy Approved: July, 1993

Policy Revised: September 21, 2014 / October 21, 2014 / October 20, 2015 / June 20, 2017 / September 15, 2020

Hagerstown Community College complies with current Title IX sexual harassment and discrimination regulations, as is mandated by Federal and state regulations, including published regulations from the United States Department of Education Title IX of the Education Amendments Act of 1972. In addition, some forms of sexual misconduct violate the criminal laws of the State of Maryland. The College is committed to taking necessary measures in an effort to prevent incidents of sexual misconduct and to taking action to support all parties involved, ensure a fair review process for all parties involved, and take appropriate action should an incident be reported

Sexual misconduct is an umbrella term that encompasses various types of prohibited conduct, including sexual harassment, sexual assault, domestic violence, dating violence and stalking.

Hagerstown Community College will not tolerate acts of sexual misconduct in any form and will maintain procedures compliant with Federal and state regulations; procedures can be found in detail on the College web page.

TITLE IX COMMITTEE

Anyone who has experienced sexual misconduct may report the incident to any HCC employee, who shall promptly report the alleged incident to a supervisor, the Title IX Coordinator, or a Deputy Title IX Coordinator.

Before a complainant reveals information that s/he may wish to keep confidential, the employee will inform the complainant that he/she is a required Title IX reporter and as such, will have to inform a supervisor, the Title IX Coordinator, or a Deputy Title IX Coordinator about this alleged incident. No HCC employees are considered “confidential employees.” Employees must report all relevant details about the alleged sexual misconduct that the complainant has shared.

If a complainant wants confidentiality, then he/she should be referred to a health care provider or licensed counselor. Confidential reports are accepted at CASA (Citizens Assisting and Sheltering the Abused), www.casainc.org/programs.html, 301-739-4990, 24 hour hotline: 301-739-8975.

A complainant may also make a report directly to anyone on HCC’s Title IX Committee, which consists of the Title IX Coordinator and several a Deputy Title IX Coordinators:

Dr. Christine Ohl-Gigliotti, Dean of Students
Title IX Coordinator

HCC - Student Center Room 142
11400 Robinwood Drive
Hagerstown, MD 21740
240-500-2526 or caohl-gigliotti@hagerstowncc.edu

Ms. Jennifer Childs, Executive Director for Human Resources
Deputy Title IX Coordinator
HCC - Administration and Student Affairs (ASA) Building Room 700
11400 Robinwood Drive
Hagerstown, MD 21740
240-500-2259 or jachilds@hagerstowncc.edu

Mr. Robert Rohan, Director of Athletics, Physical Education & Leisure Studies
Deputy Title IX Coordinator
HCC - Athletic, Recreation and Community Center (ARCC) Room 210
11400 Robinwood Drive
Hagerstown, MD 21740
240-500-2367 or rcrohan@hagerstowncc.edu

Dr. Carol Rothstein, Dean of Instruction
Deputy Title IX Coordinator
HCC - Learning Resource Center (LRC) Room 313
11400 Robinwood Drive
Hagerstown, MD 21740
240-500-2437 or carothstein@hagerstowncc.edu

Ms. Jaime Bachtell, Coordinator of Disability Support Services
Deputy Title IX Coordinator
HCC – Student Center, Room 115
11400 Robinwood Drive
Hagerstown, MD 21740
240-500-2273 or jlbachtell@hagerstowncc.edu

A member of the Title IX Committee will ensure that the complainant:

- receives a copy of the *Sexual Misconduct Policy and Procedure*;
- is advised of the option to notify law enforcement and is assisted in doing so if desired;
- is advised of HCC's investigative obligations and process;
- is advised that even if the complainant chooses not to pursue the complaint, HCC may proceed with its investigation;
- is advised of available interim measures; and
- is advised about available resources for counseling, health, mental health, victim advocacy, and legal assistance.

OFFICIALS WITH AUTHORITY

Hagerstown Community College has determined that the following administrators - including Deans, Directors, and Supervisors of Hagerstown Community College employees - and members of HCC's Title IX Committee are Officials with Authority to address and correct harassment, discrimination, and/or retaliation. The Title IX Coordinator manages the Title IX Committee and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Committee are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents.

To raise any concern involving bias, conflict of interest, misconduct or discrimination committed by the Title IX Coordinator, contact the Hagerstown Community College President, Dr. James Klauber. Concerns of bias or a potential conflict of interest by any of the Title IX Deputy Coordinators should be raised with the Title IX Coordinator.

Complaints or notice of alleged policy violations, inquiries about, or concerns regarding this policy and procedures, may be made internally to:

Dr. Christine Ohl-Gigliotti, Dean of Students
Title IX Coordinator
HCC - Student Center Room 142
11400 Robinwood Drive
Hagerstown, MD 21740
240-500-2526 or caohl-gigliotti@hagerstowncc.edu

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue
SW Washington, D.C. 20202-1100

Customer Service Hotline #: 800.421.3481

Facsimile: 202.453.6012

TDD#: 877.521.2172

Email: OCR@ed.gov

Web: www.ed.gov/ocr

For complaints involving employees: [Equal Employment Opportunity Commission \(EEOC\)](#)

NOTICE/COMPLAINTS of DISCRIMINATION, HARASSMENT, and/or RETALIATION

Initial notice or complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

- File a complaint with, or give verbal notice to, the Title IX Coordinator, Deputy Title IX Coordinator, or Officials with Authority. Such a report may be made at any time by using the telephone number or email address, or by mail to the office address of the official listed. If need, see the Faculty/Staff Directory at hagerstowncc.edu.
- Students may report online, by completing an online Student Assistance Form located at hagerstowncc.edu, under the Current Students tab. These reports go directly to the Title IX Coordinator. Anonymous reports are accepted but can give rise to a need to investigate. Hagerstown Community College seeks to provide supportive measures to all Complainants, which is impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as HCC respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows HCC to discuss and/or provide supportive measures.
- Report to a campus supervisor via a verbal or written report.

Once an initial complaint has been submitted and reviewed by the Title IX Coordinator, the Complainant will be given the option to submit a Formal Complaint. A Formal Complaint means a document filed/signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that Hagerstown Community College investigate the allegation(s). As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal) provided for this purpose by Hagerstown Community College that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of Hagerstown Community College.

SUPPORTIVE MEASURES

Hagerstown Community College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment, discrimination, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the College’s education program or activity.

The Title Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint and ensures both parties are in control of what supportive measures they want to receive. At the time that supportive measures are offered, the Title IX

Coordinator or a Deputy Title IX Coordinator will inform the Complainant, in writing, that they may file a formal complaint either at that time or in the future if they have not done so already. The Title IX Coordinator or a Deputy Title IX Coordinator will document, in writing, the supportive measures offered to any student or employee.

The College will maintain the privacy of the supportive measures, provided that privacy does not impair the College's ability to provide the supportive measures. Hagerstown Community College will act to ensure as minimal an academic impact on the parties as possible. HCC will implement measures in a way that does not unreasonably burden the other party. These actions may include, but are not limited to:

- Campus Police assistance with transport to the nearest hospital
- Referral to the Employee Assistance Program (employee complainants)
- Referral to the HCC CARE team (student complainants)
- Referral to counseling, medical or community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Implementing contact limitations (no-contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Public Safety assistance with filing a protective order with the nearest police jurisdiction
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no-contact orders will be referred to appropriate student or employee conduct processes for enforcement.

Getting Help for Sexual Assault, Dating Violence, Domestic Violence, and/or Stalking

Being a victim of crime is a traumatic experience that may have physical and psychological effects. It is important for anyone who has been the victim of a sexual assault, dating violence, domestic violence, or stalking to go to a safe place and seek assistance as soon as possible. HCC encourages any person who believes he or she has been a victim of a sexual assault, dating violence, domestic violence, or stalking occurring at HCC or during the course of HCC-

sponsored activities to call HCC's Campus Police (240-500-2308 or 240-500-2312) as soon as possible. Campus Police are available everyday that the College is open and when campus activities are scheduled; specific hours of operation can be found at hagerstowncc.edu.

HCC's Campus Police will inform a victim of sexual assault, dating violence, domestic violence or stalking of the right to notify the appropriate law enforcement agency to file criminal charges and the importance of preserving evidence associated with the crime. With the victim's consent, the HCC Campus Police will notify the Washington County Sheriff's Department to conduct an official criminal investigation of any allegation and where appropriate will arrange for the victim to be transported to Meritus Medical Center for medical evaluation and treatment.

Student victims will be connected with a member of the HCC Student Behavioral Intervention / CARE Team for support and assistance through the reporting process. The BIT/CARE Team will also provide the student victim with resources and refer him/her to professionally trained counselors who are specifically experienced in dealing with sexual offense crises.

Only those HCC employees with a legitimate need to know will be informed of the incident. Normally that will include the Title IX Coordinator, the Dean of Students, and the Vice President of Academic Affairs and Student Services.

Preserving physical evidence is critically important to the sexual assault legal process. The collection of evidence from a crime is based upon a scientific principle that states that whenever two surfaces come in contact there will be an exchange of material. Physical evidence, such as DNA from semen, saliva and skin cells, and fingerprints, hair, and fibers are all types of evidence that can be transferred from the suspect to the victim and from the victim to the suspect. It is important that evidence be collected in a timely manner, free from contamination, and stored properly in order for that evidence to be used in criminal proceedings. The victim of a sexual assault should not change clothes, smoke, bathe/shower, urinate, douche, wash hands, brush teeth, eat or drink before the evidence can be collected.

If a victim of sexual assault elects to go to the hospital, an advocate or designated hospital staff member will provide the following options:

- report to police and receive a forensic exam;
- receive a forensic exam as an anonymous report; or
- receive medical treatment only.

Sexual Assault Forensic Evidence (SAFE) kits are collected by a trained Forensic Nurse Examiner (FNE). FNEs are nurses, not law enforcement personnel, who have been specially trained in the collection of sexual assault evidence.

A victim may decline to have a SAFE kit collected or may elect to have a kit collected as an anonymous reporting (i.e., "Jane Doe" kit). Anonymous reporting/Jane Doe kits allow the victim

of a sexual assault to have a SAFE kit collected without having to report the crime to law enforcement. The evidence will be collected, given a tracking number, and stored for future use. It is important to note that Jane Doe kits are merely stored for potential use if the victim decides in the future to make a report. The evidence is not examined at the time it is collected; therefore, investigative leads, such as identifying a suspect, are not developed.

If the anonymous report option is selected, the victim will be told:

- the benefits of anonymous reporting (e.g., time to weigh options before participating in the criminal justice system);
- the drawbacks of anonymous reporting (e.g., challenges for the investigation and prosecution);
- the length of time for which evidence will be stored; and
- who to contact, and how, if the victim decides to report.

For more information on anonymous reporting, visit the Governor's Office of Crime Control and Prevention's website: goccp.maryland.gov/victims/.

EMERGENCY REMOVAL

Hagerstown Community College can act to remove a Respondent entirely or partially from HCC's education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the Behavioral Intervention/CARE Team using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student or employee will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested within two work days, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation. The Title IX Coordinator has sole discretion under this policy to implement or

maintain an emergency removal and to determine the conditions and duration. An emergency removal will remain in effect until 1) a final decision has been made concerning the alleged policy violation and/or 2) the Title IX Coordinator determines that the reason(s) for imposing the emergency removal no longer exists. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

PROMPTNESS

All allegations are acted upon promptly by Hagerstown Community College once it has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer; however, Hagerstown Community College will avoid all undue delays within its control. Any time the general timeframes for resolution outlined in these procedures will be delayed, Hagerstown Community College will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

PRIVACY

Every effort is made by Hagerstown Community College to preserve the privacy of reports. The College will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

Hagerstown Community College reserves the right to designate which College officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA). Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: Title IX and Deputy Title IX Coordinators, Hagerstown Community College Campus Police, and the Behavioral Intervention/CARE Team. Information will be shared as necessary with investigators, decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy. Hagerstown Community College may contact parents/guardians of students who are minors (under age of 18) to inform them of situations in which there is a significant health and/or safety risk, but will usually consult with the student first before doing so.

JURISDICTION OF HAGERSTOWN COMMUNITY COLLEGE

This policy applies to the educational program and activities of the Hagerstown Community College to conduct that takes place on the campus or on property owned or controlled by HCC

and at HCC-sponsored events. The Respondent must be a member of HCC's community in order for its policies to apply. For the purpose of this policy, member of HCC community applies to students and employees participating in an educational program or activity.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to Hagerstown Community College's educational program. HCC may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial HCC interest. Regardless of where the conduct occurred, HCC will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial HCC interest includes:

- Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational interests or mission of HCC.

If the Respondent is unknown or is not a member of the HCC community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report. Further, even when the Respondent is not a member of the HCC community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

In addition, Hagerstown Community College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from HCC property and/or events.

All vendors serving Hagerstown Community College through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies. Similarly, the Title IX Coordinator may be able to advocate for a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to Hagerstown Community College where sexual harassment or sexual discrimination procedures of the facilitating or host organization may give recourse to the Complainant.

TIME LIMITS ON REPORTING

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to Hagerstown Community College's jurisdiction and/or

significant time has passed, the ability to investigate, to respond, and to provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, Hagerstown Community College will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

DISCRIMINATORY MISCONDUCT & HARASSMENT ON THE BASIS OF SEX

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment on the basis of sex. Hagerstown Community College's sexual misconduct policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of **legally** prohibited sexual misconduct that are also prohibited under Hagerstown Community College policy.

Sexual Harassment Definition

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the state of Maryland regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Hagerstown Community College has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well.

Sexual Misconduct, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as: Conduct on the basis of sex that satisfies one or more of the following:

1. Quid Pro Quo:

- an employee of Hagerstown Community College,
- conditions the provision of an aid, benefit, or service of the College,
- on an individual's participation in unwelcome sexual conduct; and/or

2. Sexual Harassment:

- unwelcome conduct,

- determined by a reasonable person,
- to be so severe, and
- pervasive, and,
- objectively offensive,
- that it effectively denies a person equal access to HCC's education program or activity.

Sexual Assault Definition

1. Sex Offenses, Forcible:

- Any sexual act directed against another person,
- without the consent of the Complainant,
- including instances in which the Complainant is incapable of giving consent.

2. Forcible Rape:

- Penetration,
- no matter how slight,
- of the vagina or anus with any body part or object, or
- oral penetration by a sex organ of another person,
- without the consent of the Complainant.

3. Forcible Sodomy:

- Oral or anal sexual intercourse with another person,
- forcibly,
- and/or against that person's will (non-consensually), or
- not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

4. Sexual Assault with an Object:

- The use of an object or instrument to penetrate,
- however slightly,
- the genital or anal opening of the body of another person,
- forcibly,
- and/or against that person's will (non-consensually),
- or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

5. Forcible Fondling:

- The touching of the private body parts of another person (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- forcibly,
- and/or against that person's will (non-consensually),
- or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

6. Sex Offenses, Non-forcible:

a. Incest:

- Non-forcible sexual intercourse,
- between persons who are related to each other,
- within the degrees wherein marriage is prohibited by MD law.

b. Statutory Rape:

- Non-forcible sexual intercourse,
- with a person who is under the statutory age of consent of MD

Dating Violence Definition

- violence,
- on the basis of sex,
- committed by a person,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 - Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence Definition

- violence,
- on the basis of sex,
- committed by a current or former spouse or intimate partner of the Complainant,
- by a person with whom the Complainant shares a child in common, or
- by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or

- by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Maryland or
- by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Maryland.

To categorize an incident as Domestic Violence –

- the relationship between the Respondent and the Complainant must be more than just two people living together as roommates
- the people cohabitating must be current or former spouses or have an intimate relationship.

Stalking Definition

- engaging in a course of conduct,
- on the basis of sex,
- 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 two or more acts, including, but not limited to, acts in which the Respondent 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 Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Consent Definition

- a positive, unambiguous, and voluntary agreement to engage in specific sexual activity throughout a sexual encounter.
- cannot be inferred from the absence of the person saying "no." A clear "yes," verbal or otherwise, is necessary.
- does not imply consent to others, nor does past consent to a given act imply present or future consent.
- must be ongoing throughout a sexual encounter and can be revoked at any time.
- cannot be obtained by threat, coercion, or force.
- cannot be obtained from a person who is incapacitated.

- Incapacitated refers to those persons who have mental or physical disabilities that temporarily or permanently render the person incapable of appraising the nature of the sexual activity, resisting the sexual activity, or unable to communicate an unwillingness to engage in the sexual activity. Consent cannot be obtained from someone who is asleep or otherwise mentally or physically incapacitated due to alcohol, drugs, medication, or some other condition.

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on Hagerstown Community College to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

RETALIATION

Protected activity includes reporting an incident that may implicate this policy and procedure, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Hagerstown Community College is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

It is prohibited for HCC or any member HCC's community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

Charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

MANDATED REPORTING

All Hagerstown Community College employees (faculty, staff, administrators) are encouraged to report actual or suspected sexual misconduct to appropriate officials immediately, though there are some limited exceptions. Officials with Authority (see page 4) are mandated reporters who are required to report.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them. The following sections describe the reporting options at Hagerstown Community College for a Complainant or third-party (including parents/guardians when appropriate):

Confidential Resource

If a Complainant would like to ensure the details of an incident to be kept confidential, the Complainant may speak with:

- For students- a local licensed professional counselor contracted with Hagerstown Community College and accessible through HCC's Behavioral Intervention / CARE Team.
- For employees counselors available through the Employee Assistance Programs

The above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order. Hagerstown Community College will timely submit anonymous statistical information for Clery Act purposes.

Mandated Reporters and Formal Notices/Complaints

All employees of Hagerstown Community College (including student employees) are encourage report; Officials with Authority are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Officials with Authority must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party. Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Supportive measures may be offered as the result of such disclosures without formal Hagerstown Community College action. Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment or discrimination of which they become aware can be subject to disciplinary action for failure to comply.

WHEN A COMPLAINANT DOES NOT WANT TO PROCEED

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law. The Title IX Coordinator has ultimate discretion over whether Hagerstown Community College proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires Hagerstown Community College to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Hagerstown Community College may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes. The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and HCC's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy. When Hagerstown Community College proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant.

Note that Hagerstown Community College's ability to remedy and respond to notice may be limited if the Complainant does not want HCC to proceed with an investigation and/or grievance

process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the HCC's obligation to protect its community. In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the College to honor that request, Hagerstown Community College will offer informal resolution options, supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action. If the Complainant elects to not take action, they can change that decision should they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right to have allegations taken seriously by Hagerstown Community College and to have the incidents investigated and properly resolved through these procedures.

FEDERAL TIMELY WARNING OBLIGATIONS

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, Hagerstown Community College must issue timely warnings for incidents reported that pose a serious or continuing threat of bodily harm or danger to members of the campus community. HCC will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

FEDERAL STATISTICAL REPORTING OBLIGATIONS

Certain campus officials—those deemed Campus Security Authorities—have a duty to report the following for federal statistical reporting purposes (Clery Act):

- All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- Violence Against Women Act (VAWA) based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be passed along to the Hagerstown Community College Campus Police regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include: student affairs/student conduct staff, HCC Campus Police, local police, coaches, athletic directors, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

FALSE ALLEGATIONS AND EVIDENCE

Deliberately false and/or malicious accusations under this policy and procedure, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be

subject to appropriate disciplinary action. Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under Hagerstown Community College policy.

AMNESTY FOR COMPLAINANTS AND WITNESSES

The Hagerstown Community College community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to HCC officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons. It is in the best interests of the College community that Complainants choose to report misconduct to Hagerstown Community College officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, Hagerstown Community College maintains a policy of offering Complainants and witnesses amnesty from minor policy violations—such as underage consumption of alcohol or the use of illicit drugs—related to the incident. Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty to a Respondent is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within the discipline system. Hagerstown Community College maintains a policy of amnesty for students who offer help to others in need.

SEXUAL MISCONDUCT GRIEVANCE PROCEDURE

The procedures below apply only to qualifying allegations of sexual misconduct (including sexual harassment, sexual assault, dating violence, domestic violence, and stalking, as defined previously) involving students, staff, administrator, or faculty members. All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through procedures elaborated on in Hagerstown Community College student and employee handbooks.

1. Notice / Complaint

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Sexual Misconduct Policy, Hagerstown Community College initiates a prompt initial assessment to determine the next steps the College needs to take. HCC will initiate at least one of three responses:

- Offering supportive measures because the Complainant does not want to proceed formally; and/or
- An informal resolution; and/or
- A Formal Grievance Process including an investigation and a hearing.

The investigation and grievance process will determine whether or not the Sexual Misconduct Policy has been violated. If it is determined that the Sexual Misconduct Policy has been violated, Hagerstown Community College will promptly implement effective remedies designed to ensure that the College is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.

2. Initial Assessment

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator engages in an initial assessment, which is typically one to five business days in duration. The steps in an initial assessment can include:

- If notice is given, the Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
 - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure the complaint is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive response only, an informal resolution option, or a formal investigation and grievance process.
 - If a supportive response is only preferred, the Title IX Coordinator works with the Complainant to identify their wishes and then seeks to facilitate implementation. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
 - If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, (which informal mechanism may serve the situation best or is available) and may seek to determine if the Respondent is also willing to engage in informal resolution.
 - If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
 - If the conduct does fall within the scope of Title IX, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
 - an incident, and/or
 - a pattern of alleged misconduct, and/or
 - a culture/climate issue, based on the nature of the complaint.
 - If the conduct does not fall within the scope of Title IX, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply,

which resolution process is applicable, and will refer the matter accordingly.

Violence Risk Assessment

In some cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by a trained member of the Behavioral Intervention /CARE TEAM as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to impose transcript notation or communicate with a transfer institution about a Respondent;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Timely Warning should be issued to the Campus Community consistent with the Clery Act
- Whether a banning letter should be issued to the respondent making their presence on campus a criminal offense.

Threat assessment is the process of evaluating the potential for violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or campus Behavioral Intervention / CARE team members. A VRA authorized by the Title IX Coordinator should occur in collaboration with HCC's Behavioral Intervention / CARE team. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process. A VRA is not an evaluation for an involuntary behavioral health hospitalization nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

Dismissal (Mandatory and Discretionary)

Hagerstown Community College **must** dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- The conduct alleged in the formal complaint would not constitute sexual misconduct as defined in the Policy hereinabove, even if proved; and/or
- The conduct did not occur in an educational program or activity controlled by Hagerstown Community College (including buildings or property controlled by recognized student organizations), and/or HCC does not have control of the Respondent; and/or
- The conduct did not occur against a person in the United States; and/or
- At the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in an education program or activity of Hagerstown Community College.

Hagerstown Community College **may** dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- The Respondent is no longer enrolled in or employed by the College; or
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, Hagerstown Community College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. This dismissal decision is appealable by any party under the procedures for appeal below. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate. A Complainant who decides to withdraw a complaint may later request to reinstate the complaint or to refile the complaint.

3. Counterclaims

Hagerstown Community College is obligated to ensure that the sexual misconduct grievance process is not abused for retaliatory purposes. HCC permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur. Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are **not** made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

4. Right to an Advisor

The parties may each have no more than two Advisors of their choice present with them for all meetings and interviews within the resolution process, if they so choose. Advisors could include an attorney, advocate, or support person. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available. The Advisor cannot have institutionally conflicting roles, such as being a Title IX Committee member who has an active role in the case, or a supervisor who must monitor and implement sanctions.

Both the Complainant and the Respondent may access an attorney to serve as an Advisor, whose fees may be reimbursed up to a certain amount by the Maryland Higher Education Commission (the “Commission”), if they meet the following criteria:

- The Complainant is a current or former student who makes a complaint on which a formal Title IX investigation is initiated and who was enrolled as a student at the institution at the time of the incident that is the basis of the complaint, unless the student knowingly and voluntarily chooses not to have counsel; and
- The Respondent is a current or former student who responds to a complaint on which a formal Title IX investigation is initiated and who was enrolled as a student at the institution at the time of the incident that is the basis of the complaint, unless the student knowingly and voluntarily chooses not to have counsel.

The Commission maintains a list of attorneys and legal services programs who have indicated they are willing to represent students in Title IX proceedings on a pro bono basis or for reduced legal fees. This list is developed in consultation with state and local bar associations and legal services providers with expertise about sexual misconduct. More information can be found at Maryland Higher Education Commission Website. Students may select and retain an attorney from the Commission’s list prior to the conclusion of the formal Title IX proceedings. If the student selects and retains an attorney that is not on the Commission’s list, the attorney may seek fee reimbursement up to a certain amount from the Commission. The Commission is not required to pay a student’s attorney’s fees for representation in a criminal or civil matter. The Title IX Coordinator will assist both the Complainant and Respondent, upon their request, with information on how they can access legal counsel through the Maryland Higher Education Commission.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing decision-maker.

Who Can Serve as an Advisor

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the HCC community.

The Title IX Coordinator will offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from Hagerstown Community College, the Advisor will be trained by HCC and be familiar with HCC's resolution process.

If the parties choose an Advisor from outside the pool of those identified by HCC, the Advisor may not have been trained by HCC and may not be familiar with the College's policies and procedures. Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

Advisors in Hearings / Hagerstown Community College Appointed Advisor

Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing and must be conducted by the Complainant or Respondent Advisors. The parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an Advisor for a hearing, Hagerstown Community College will appoint a trained Advisor for the limited purpose of conducting any cross-examination.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct cross-examination, Hagerstown Community College will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Decision-maker during the hearing.

Advisor's Role

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Hagerstown Community College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, Hagerstown Community College is not obligated to provide an attorney.

Pre-Interview Meetings

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and Hagerstown Community College's policies and procedures.

Advisor Violations of Hagerstown Community College Policy

All Advisors are subject to the same Hagerstown Community College policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee,

either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

Sharing Information with the Advisor

Hagerstown Community College expects that the parties may wish to have the College share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

Hagerstown Community College also provides a Family Educational Rights and Privacy Act (FERPA) form that authorizes the College to share such information directly with the Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before HCC is able to share records with an Advisor. If a party requests that all communication be made through their attorney Advisor, Hagerstown Community College will not comply with that request. The student or employee involved will continue to be the primary recipient of information.

Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Hagerstown Community College. HCC may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by Hagerstown Community College's privacy expectations.

Expectations of an Advisor

Hagerstown Community College generally expects an Advisor to adjust their schedule to allow them to attend College meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay and reasonable advance notice is given. HCC may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a FERPA release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

5. Resolution Processes

Resolution proceedings are private and highly confidential. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with Hagerstown Community College policy. While there is an expectation of privacy around what investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose. Hagerstown Community College encourages parties to discuss with their Advisors before sharing information with others.

Informal Resolution

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined previously. If a Respondent wishes to initiate Informal Resolution, they should contact the Title IX Coordinator.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Sexual Misconduct Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Sexual Misconduct Grievance Process.

Prior to implementing Informal Resolution, Hagerstown Community College will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by Hagerstown Community College.

Hagerstown Community College will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution. The Title IX Coordinator may look to the following factors to assess whether Informal Resolution is appropriate:

- The parties' amenability to Alternate Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;

- Cleared violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the Informal Resolution facilitator with this type of complaint;
- Complaint complexity;
- Emotional investment/intelligence of the parties;
- Rationality of the parties;
- Goals of the parties;
- Adequate resources to invest in Alternate Resolution (time, staff, etc.)

The ultimate determination of whether Informal Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

6. Formal Grievance Process: Notice of Investigation and Allegations (NOIA)

The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Sexual Misconduct Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that Hagerstown Community College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about Hagerstown Community College’s policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,

- A statement informing the parties that Hagerstown Community College Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- A link to Hagerstown Community College's Title IX website
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges. Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official Hagerstown Community College records, or emailed to the parties' College-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

7. Resolution Timeline

Hagerstown Community College will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) work day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

8. Appointment of Investigators & Ensuring Impartiality in the Process

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints a Deputy Title IX Coordinator(s) to conduct the investigation usually within two (2) business days of determining that an investigation should proceed. A trained member of the Title IX Committee will serve as Investigator.

Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator, Investigator(s), and Decision-maker, may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Investigator will be assigned and the impact of the bias or conflict, if any, will be remedied.

The Formal Sexual Misconduct Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence which supports that the Respondent engaged in a policy violation and evidence which supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

Hagerstown Community College operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the preponderance of evidence standard.

9. Investigation Timeline, Delays and Interactions with Law Enforcement

Investigations are completed normally within thirty (30) business days, though some investigations may take months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. Hagerstown Community College will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

Hagerstown Community 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 temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, a period of College closure, an unexpected work leave of absence by the Title IX Coordinate, Investigator, or college assigned Advisor, and/or accommodations for disabilities or health conditions. HCC will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. Hagerstown Community College will promptly resume its investigation and resolution process as soon as feasible. During such a delay, HCC will implement supportive measures as deemed appropriate.

Hagerstown Community College's action(s) 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.

10. Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps:

- Determine the identity and contact information of the Complainant.
- In coordination with campus partners (e.g., the Title IX Coordinator, college assigned Advisor), initiate or assist with any necessary supportive measures.
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated.
- Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties.
- Meet with the Complainant to finalize their interview/statement, if necessary.
- Assist the Title IX Coordinator in preparing the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations.
- NOIA notice should inform the parties of their right to have the assistance of an Advisor, who could be assigned by the College an Advisor of their choosing present for all meetings attended by the party.
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings.
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible.
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide regular status updates to the parties throughout the investigation.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding.

- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included.
- The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the College does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).
- The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses.
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period.
- The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report.

11. Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of Hagerstown Community College are expected to cooperate with and participate in the College's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline. While in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely.

12. Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings.

13. Evidentiary Considerations in the Investigation

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

14. Referral for Hearing

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation—when the final investigation report is transmitted to the parties **and** the Decision-maker—unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator will select an appropriate Decision-maker. Decision-makers from the Pool depending on whether the Respondent is an employee or a student. Allegations involving student-employees will be directed to the appropriate Decision-maker depending on the context of the alleged misconduct.

15. Decision-maker Selection

Hagerstown Community College will designate a hearing Decision-maker, at the discretion of the Title IX Coordinator. The Decision-maker will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the resolution process in the event that a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Decision-maker.

16. Evidentiary Considerations in the Hearing

Any evidence that the Decision-maker determines is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and

evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process. The Title IX Coordinator will hold this information and share with the Decision-maker if a determination of responsibility is made.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-maker at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Decision-maker renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

17. Notice of the Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus or employment activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.

- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker. For compelling reasons, the Decision-maker may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. At least five (5) business days prior to the hearing, the party must notify the Title IX Coordinator if they do not have an Advisor, and HCC will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker about the matter, unless they have been provided already.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Whether parties are permitted to bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer term, as needed, to meet the resolution timeline followed by Hagerstown Community College and remain within the 60-90 business day goal for resolution.

18. Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator or the Decision-maker at least five (5) business days prior to the hearing.

The Title IX Coordinator or the Decision-maker can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator or the Decision-maker know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

19. Pre-Hearing Preparation

The Title IX Coordinator will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless all parties and the Title IX Coordinator assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing.

If the parties and Title IX Coordinator do not agree to the admission of evidence newly offered at the hearing, the Title IX Coordinator will delay the hearing and instruct that the investigation needs to be reopened to consider that evidence.

The parties will be given a list of the names of the Decision-maker at least ten (10) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than five (5) days prior to the hearing. A Decision-maker will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will give the Decision-maker a list of the names of all parties, witnesses, and Advisors at least ten (10) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence.

20. Pre-Hearing Meetings

The Title IX Coordinator may convene a pre-hearing meeting(s) with the parties and their Advisors to invite them to submit the questions or topics they wish to ask or discuss at the hearing, so that the Decision-maker can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking at the hearing for a reconsideration based on any new information or testimony offered at the hearing. The Decision-maker must document and share their rationale for any exclusion or inclusion at this pre-hearing meeting.

The Decision-maker, only with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their Advisor, the Decision-maker will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s)

may be argued to be relevant. The Decision-maker may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Decision-maker may consult with legal counsel and/or the Title IX Coordinator, or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded.

21. Hearing Procedures

Participants at the hearing will include the Chair, any additional Decision-maker, the hearing facilitator, the Investigator(s) who conducted the investigation, the parties (respondent and complainant), Advisors to the parties, any called witnesses, the Title IX Coordinator, and anyone providing authorized accommodations or assistive services.

The Decision-maker will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Decision-maker will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker and the parties and will then be excused.

22. Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

23. Hearing Scripts – Introductions and Procedures

The Title IX Coordinator explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-maker on the basis of bias or conflict of interest.

At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator (also known as the Chair). The hearing facilitator or Chair may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual

conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc. The non-voting hearing facilitator or Chair will follow a basic script; whenever feasible, copies of the script will be shared with the parties prior to the hearing.

24. Investigator Presents the Final Investigation Report

The Investigator(s) will present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-maker should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Decision-maker will direct that it be disregarded.

25. Testimony and Questioning

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-maker and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Decision-maker. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the

Decision-maker upon request or agreed to by the parties and the Decision-maker), the proceeding will pause to allow the Decision-maker to consider it, and the Decision-maker will determine whether the question will be permitted, disallowed, or rephrased.

The Decision-maker may explore arguments regarding relevance with the Advisors, if the Decision-maker so chooses. The Decision-maker will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Decision-maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-maker will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Decision-maker has final say on all questions and determinations of relevance, subject to any appeal. The Decision-maker may consult with legal counsel on any questions of admissibility. The Decision-maker may ask advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the Decision-maker has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Decision-maker may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

26. Refusal to Submit to Cross-Examination and Inferences

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-maker may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-maker must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.

If the party or witness attends the hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from admission. Statements can be relied upon when questions are posed by the Decision-maker, as distinguished from questions posed by Advisors through cross-examination.

The Decision-maker may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If a party's Advisor of choice refuses to comply with Hagerstown Community College's established rules of decorum for the hearing, the Title IX Coordinator may require the party to use a different Advisor. If a Hagerstown Community College-provided Advisor refuses to comply with the rules of decorum, the Title IX Coordinator may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

27. Recording Hearings

Hearings (but not deliberations) are recorded by Hagerstown Community College for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker, the parties, their Advisors, and appropriate administrators of Hagerstown Community College will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

28. Deliberation, Decision-making, and Standard of Proof

The Decision-maker will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker may then consider the previously submitted party impact statements in determining appropriate sanctions.

The hearing facilitator or Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-maker may—at their discretion—consider the statements, but they are not binding.

The Decision-maker will review the statements and any pertinent conduct history and will determine the appropriate sanction(s) in consultation with other appropriate administrators, as required.

The Decision-maker will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions. This report typically should not exceed three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

29. Notice of Outcome

Using the deliberation statement, the Title IX Coordinator will work with the Decision-maker to prepare a Notice of Outcome. The Title IX Coordinator will share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within seven business days of receiving the Decision-maker's deliberation statement; the Notice of Outcome will be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official Hagerstown Community College records, or emailed to the parties' Hagerstown Community College-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, notice will be presumptively delivered.

The Notice of Outcome will identify the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by Hagerstown Community College from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent that Hagerstown Community College is permitted to share such information under state or federal law; any sanctions issued which Hagerstown Community College is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the Hagerstown Community College's educational or employment program or activity, to the extent that Hagerstown Community College is permitted to share such information under state or federal law.

The Notice of Outcome will also include information on when the results are considered by the Hagerstown Community College to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

30. Statement of the Rights of the Parties

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or discrimination made in good faith to Hagerstown Community College officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by Hagerstown Community College officials.
- The right to have College policies and procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by Hagerstown Community College officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
- The right to be informed by Hagerstown Community College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by Hagerstown Community College authorities in notifying such

authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.

- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by Hagerstown Community College officials.
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; legal, student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
- The right to a Hagerstown Community College-implemented no-contact order when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct that presents a danger to the welfare of the party or others.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
 - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
 - Visa/immigration assistance
 - Exam, paper, and/or assignment rescheduling or adjustment
 - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
 - Transferring class sections
 - Temporary withdrawal/leave of absence (may be retroactive)
 - Public safety escort
 - Alternative course completion options.
- The right to have Hagerstown Community College maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair the College's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
- The right to ask the Investigator(s) and Decision-maker to identify and question relevant witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-maker with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
- The right not to have irrelevant prior sexual history or character admitted as evidence.
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence

available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.

- The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker who have received at least eight hours of relevant annual training.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any Hagerstown Community College representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to the use of the preponderance of the evidence standard to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered by the Decision-maker following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale therefore (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by Hagerstown Community College is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by Hagerstown Community College.
- The right to a fundamentally fair resolution as defined in these procedures.

31. Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent’s disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

Student Sanctions listed in the Hagerstown Community College Student Handbook will be considered.

Employee Sanctions listed in the Hagerstown Community College Employee Handbook will be considered.

32. Withdrawal or Resignation While Charges Pending

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution.

If a decision is made by Hagerstown Community College to end the resolution process as a result of a student Respondent permanently withdrawing from Hagerstown Community College, or an employee Respondent resigning from Hagerstown Community College, Hagerstown Community College will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged misconduct and/or retaliation.

33. Appeals

Any party may file a request for appeal (“Request for Appeal”), but it must be submitted in writing to the Title IX Coordinator within seven days of the delivery of the Notice of Outcome.

An appeal Decision-maker will be designated by the Title IX Coordinator. This person will not have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

Grounds for Appeal

Appeals are limited to the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- 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; and
- The Title IX Coordinator, Investigator(s), or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.
- Other additional bases as long as applied to the parties, equitably.
- Parties must be able to appeal a determination or a sanction.

If any of the grounds in the Request for Appeal do not meet the grounds in this procedure, that request will be denied by the Appeal Decision-maker and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this procedure, then the Appeal Decision-maker will notify the other party(ies) and their Advisors, and, when appropriate, the Investigators and/or the original Decision-maker.

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker will be mailed, emailed, and/or provided a hard copy of the appeal request with the approved grounds and then be given seven business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Appeal Decision-maker to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time; depending on timeline, the non-appealing party may be granted more time to respond with an appeal. If so, that will be reviewed for standing by the Appeal Decision-maker and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses in seven business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after the documented appeals time period has ended. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses to render a

decision in no more than seven business days, barring exigent circumstances. All decisions made by the Appeal Decision-maker are based on the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which Hagerstown Community College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent Hagerstown Community College is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' Hagerstown Community College-issued email or otherwise approved account. Once mailed, emailed and/or received in person, notice will be presumptively delivered.

Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

Hagerstown Community College may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

Appeal Considerations

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker merely because they disagree with the finding and/or sanction(s).
- The Appeal Decision-maker may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.

- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-maker for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand.
- In rare cases where a procedural error cannot be cured by the original Decision-maker (as in cases of bias), the appeal may order a new hearing with a new Decision-maker.
- The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to Hagerstown Community College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

34. Long-term Remedies / Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

35. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by Hagerstown Community College to the Respondent to ensure no effective denial of educational access.

Hagerstown Community College will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair Hagerstown Community College's ability to provide these services.

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker. Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from Hagerstown Community College and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

36. Recordkeeping

Hagerstown Community College will maintain for a period of seven years records of:

1. Each sexual misconduct investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. HCC will make these training materials publicly available on Hagerstown Community College's website; and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent;
 - b. Any measures designed to restore or preserve equal access to Hagerstown Community College's education program or activity; and
 - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Hagerstown Community College will also maintain any and all records in accordance with state and federal laws.

37. Revision of this Policy and Procedures

This Title IX Sexual Misconduct Policy and Procedures supersede any previous policy(ies) addressing sexual misconduct, harassment, discrimination, and/or retaliation and will be reviewed and updated annually by the Title IX Coordinator. Hagerstown Community College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally. This Title IX Sexual Misconduct Policy & Procedures are effective August 14, 2020.

EDUCATIONAL AND TRAINING RESOURCES

HCC Campus Police works with Student Affairs to provide resources and educational opportunities, including crime prevention programs and services:

- BIT/CARE Team sponsors an annual educational program on healthy relationships. *One Love Escalation Workshop*, in remembrance of Yardley Love, raises awareness about dating and domestic violence. Strong encourage for student athletes, available to all students.
- *Students & Sexual Assault – Legal and Practical Issues* brochure available to students at new student orientation.
- Title IX training is offered by the Title IX Coordinator to all new employees.
- Title IX information is shared with all new students during new student orientation, with all student athletes annually, and with all students at the beginning of every semester.
- Sexual harassment and misconduct training is completed annually by all employees

The following additional efforts to prevent sexual misconduct are in place in the Athletics Department:

- All coaches and other staff receive a copy of the *HCC Sexual Misconduct Policy and Procedure* and review it once a year at an annual staff meeting;
- The Athletic Handbook references the *HCC Sexual Misconduct Policy and Procedure*;
- Head coaches review the *HCC Sexual Misconduct Policy and Procedure* with student-athletes on their respective teams during the team's preseason meeting; and

- Student athletes are encouraged to annually attend a *One Love Escalation Workshop* and a student athlete leadership meeting, during which they are informed about the *HCC Sexual Misconduct Policy and Procedure*; hard copies are made available upon requests.

SAFETY AND SUPPORT RESOURCES

Maintaining the health, safety, and well-being of the campus community is Hagerstown Community College's primary concern. Below is a list of campus and community resources:

HCC Campus Police: 240-500-2308

Campus Police are available whenever the College is open and there is scheduled activity on campus to assist victims of sexual misconduct. If an individual is not certain whether criminal conduct is involved, Campus Police can assist in determining whether a crime has occurred. With the victim's consent, the Campus Police Officer may notify the Washington County Sheriff's Office to conduct an official criminal investigation of any allegations of sexual misconduct. With the victim's consent, Campus Police will arrange for transportation to Meritus Medical Center where a SAFE exam can be performed by a trained FNE.

Washington County Sheriff's Office: 911

Any individual who experiences sexual misconduct is strongly encouraged to contact local law enforcement.

Washington County Sheriff's Office/Victim Services: 240-313-2100

HCC Escort Services:

The Campus Police operates an escort service at all times for use by those concerned about their safety while on campus. Call Campus Police at 240-500-2308 or ext. 2308 from a HCC phone to request an escort to your vehicle. Wait in a well lit or populated location for the arrival of the uniformed Campus Police Officer or a Student Patrol member. Also visit the Campus Police website at <http://www.hagerstowncc.edu/about-hcc/campus-police>

HCC Student Behavioral Intervention and CARE Team:

This resource team assists students with non-academic concerns. Students impacted by sexual misconduct can visit the Dean of Students Office, call 240-500-2526 or complete a Student Assistance Form online at <http://www.hagerstowncc.edu/studentassistance> to receive assistance.

Dean of Students Office / Title IX Coordinator

Dr. Christine Ohl-Gigliotti – 240-500-2526 or caohl-gigliotti@hagerstowncc.edu

Deputy Title IX Coordinators:

Ms. Jennifer Childs, Executive Director for Human Resources
Administration and Student Affairs (ASA) Building Room 700

240-500-2259 or jachilds@hagerstowncc.edu

Mr. Robert Rohan, Director of Athletics, Physical Education & Leisure Studies
Athletic, Recreation and Community Center (ARCC) Room 210
240-500-2367 or rcrohan@hagerstowncc.edu

Dr. Carol Rothstein, Dean of Instruction
Learning Resource Center (LRC) Room 313
240-500-2437 or carothstein@hagerstowncc.edu

Ms. Jaime Bachtell, Coordinator of Disability Support Services
Student Center, Room 115
240-500-2273 or jlbachtell@hagerstowncc.edu

CASA (Citizens Assisting and Sheltering the Abused): 301-739-4990, 24 hour hotline: 301-739-8975, online at www.casainc.org/programs.html :

CASA provides confidential domestic violence and sexual assault services in Washington County. Services include: a safe house for victims of domestic violence and their children; legal services; individual and group counseling for victims and children; an abuser intervention program; crisis intervention; community outreach; education and professional training; and court and hospital accompaniment. CASA is part of Washington County's Sexual Assault Response Team (SART).

Rape, Abuse & Incest National Network (RAINN) Hotline: 1-800-HOPE
www.rainn.org

GLOSSARY

- *Advisor* means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- *CARE Team:* The Care Team engages in proactive and collaborative approaches to identify, assess, and mitigate risks associated with students exhibiting concerning behaviors or expressing concerning thoughts that may pose a threat to the campus community. By partnering with members of the community, the Care Team strives to promote individual student well-being and success while prioritizing community safety.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Complaint (formal)* means a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that the College investigate the allegation.
- *Confidential Resource* means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).

- *Day* means a work day when Hagerstown Community College is in normal operation.
- *Education program or activity* means locations, events, or circumstances where Hagerstown Community College exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by the Hagerstown Community College
- *Final Determination*: A conclusion by preponderance of evidence about whether conduct, that is found to have occurred by preponderance of evidence, did or did not violate policy.
- *Finding*: A conclusion by preponderance of evidence that the conduct did or did not occur as alleged.
- *Formal Grievance Process* a method of formal resolution designated by the College to address conduct that falls within the policies included below, and which complies with the requirements of 34 CFR Part 106.45.
- *Hearing Decision-maker or Panel* refers to those who have decision-making and sanctioning authority within the Hagerstown Community College's Formal Grievance process.
- *Investigator* means the person or persons charged by Hagerstown Community College with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- *Mandated Reporter* means an employee of Hagerstown Community College who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.
- *Notice* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- *Official with Authority (OWA)* means an employee of the College explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the Recipient.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Process A* means the Formal Grievance Process detailed below and defined above.
- *Recipient* means Hagerstown Community College which is also referred to as HCC or the College in this document.
- *Remedies* are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the educational programs at Hagerstown Community College.
- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Resolution* means the result of an informal or Formal Grievance Process.
- *Sanction* means a consequence imposed by the College on a Respondent who is found to have violated this policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence.

- Student: For the purpose of this policy, Hagerstown Community College defines “student” as any individual who is registered for credit or non-credit bearing coursework.
- *Title IX Coordinator* is at least one official designated by Hagerstown Community College to ensure compliance with Title IX and the College’s Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- *Title IX Committee* refers to the Title IX Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.
- VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.