

Policy Statement

Terra State Community College (the College) is committed to providing a workplace and educational environment that is free from all forms of sexual misconduct. In furtherance of this commitment, the College has developed internal policies and procedures that comply with federal and state laws and regulations, which inform members of the College community about prohibited behavior; provide supportive measures designed to remediate the effects of sexual harassment and other sexual misconduct; and provide a prompt, fair, and impartial process to address alleged violations of this policy. The College upholds the equal dignity of all members of our community and strives to balance the rights of the parties in the grievance process during what is often a difficult time.

Policy Purpose

The College seeks to maintain a college community free from sexual misconduct.

Policy Details

1. Scope and Jurisdiction

This policy applies to all students, employees, third-party vendors, visitors on campus, or guests to the extent that there is an allegation of sexual misconduct made by them against College students or employees.

The College's prohibition against sexual misconduct encompasses a wide range of behaviors. The College also prohibits discrimination based on sex, including sex stereotyping, program exclusion, pregnancy, and other forms of disparate treatment. For the purposes of this policy, the term sexual misconduct refers to a broad range of prohibited behaviors that are further identified in paragraph 4, Prohibited Conduct.

The expectations for conduct contained within this policy apply to all aspects of the College's operations, locations, and programs, including, but not limited to property owned or controlled by the College; online programs; college-sponsored events, activities and travel; and in buildings owned or controlled by student organizations recognized by the College (collectively referred to as "on-campus").

Sexual misconduct that occurs other than on-campus may be addressed by other College policies and procedures, which may include supportive measures and/or disciplinary action. At times, these procedures can also be applicable to misconduct occurring other than on-campus that effectively deprives someone of access to the College's educational programs or when the Title IX Coordinator determines the misconduct affects a substantial College interest. A substantial interest may include:

- a. Any action that constitutes a criminal offense. This includes, but is not limited to single or repeat violations of any local, state or federal law;
- b. Any situation in which it is determined that the respondent poses an immediate threat to the physical health or safety of a student or other individual;

- c. Any situation that significantly infringes upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that is detrimental to the educational interests or mission of the College.

The policies of the College are written and interpreted broadly to include online manifestations of any of the behaviors prohibited in paragraph 4 below, when those behaviors occur in or have an effect on the College's education program and activities or use College networks, technology, or equipment.

Although the College may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the College, it will engage in a variety of means to address and mitigate the effects.

Any online posting or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of the College's control (e.g., not on College networks, websites, or between College email accounts) will only be subject to this Policy when such online conduct can be shown to cause a substantial in-program disruption or infringement on the rights of others.

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but protected speech cannot legally be subjected to discipline.

Off-campus harassing speech by employees, whether online or in person, may be regulated when such speech negatively impairs or disrupts the Respondent's relationship with the College or the working environment.

Consensual relationships of an amorous or sexual nature between individuals of unequal authority are prohibited and more information can be found by reviewing the College's Consensual Relationship Policy.

2. Retaliation

Retaliation is prohibited by College policy and law. The College will not tolerate retaliation in any form against any individual who makes an allegation, files a report, serves as a witness, assists a complainant, or participates in an investigation of discrimination, harassment, or sexual misconduct. Retaliation is a serious violation that can subject the offender to discipline, up to and including termination of employment and/or suspension or dismissal of a student, independent of the merits of the underlying allegation. Action can be taken under College policy as long as it is not done for the purpose of interfering with any rights and privileges provided by this policy.

The College expects that employees will participate in proceedings pursuant to the policy. This expectation is subject to the rights of Complainants and Respondents provided by this policy, and other rights provided by applicable law. Disciplinary action for refusal to participate does not constitute retaliation.

3. False Allegations and Process Abuse

It is a violation of this policy for anyone to knowingly or with reckless disregard for the truth make false allegations of sexual misconduct. Corrective action/sanctions may be imposed on individuals who

knowingly or with reckless disregard for the truth make false allegations of sexual misconduct. The absence of a finding of a policy violation is not equivalent to a false allegation.

It is a violation of this policy for anyone to: 1. Obstruct, prohibit, exert improper influence over, or interfere with any individual making a report, participating in a process, or carrying out a responsibility covered by this policy; 2. Falsify or misrepresent information in or related to a process covered by this policy; 3. Disrupt or interfere with the orderly conduct of any proceeding conducted under this policy; or 4. Fail to comply with any directive, sanction, or corrective action issued pursuant to this policy.

4. Prohibited Conduct

a. Sexual harassment — Conduct on the basis of sex that satisfies one or more of the following:

- i. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational program or activity;
- ii. An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct (i.e. *quid pro quo* harassment);
- iii. Any instance of sexual assault, dating violence, domestic violence, or stalking as defined by this policy.

b. Sexual Assault — Any sexual act directed against another person, without consent of the complainant, including instances where the complainant is incapable of giving consent.

- i. Sex Offense, Forcible: Any sexual act directed against another person, without consent of the complainant, including instances in which the complainant is incapable of giving consent.
 - 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 victim.
 - Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensually), or not forcibly 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.
 - 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).
 - Forcible Fondling: Touching of the private body parts of another person 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.
- ii. 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 Ohio law.

- b. **Statutory Rape:** Non-forcible sexual intercourse with a person who is under the age of statutory consent.
- c. **Dating Violence** – Violence, on the basis of sex, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant.
 - i. The existence of such a relationship shall be 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.
 - ii. The purposes of this definition:
 - a. Violence means physical violence.
 - b. Dating violence does not include acts covered under the definition of domestic violence.
- d. **Domestic Violence** – **physical** violence, on the basis of sex, committed by:
 - i. a current or former spouse or intimate partner of the complainant;
 - ii. a person with whom the complainant shares a child in common;
 - iii. a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner;
 - iv. a person similarly situated to a spouse of the complainant under the domestic or family violence laws of Ohio; or
 - v. 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 Ohio.
- e. **Stalking** – 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 their own safety, the safety of others, or to 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.
 - A reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
 - Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

5. Title IX Office

The College has an appropriately trained **Title IX Coordinator** and **Deputy Title IX Coordinators** whose responsibilities include ensuring compliance with Title IX regulations and implementation of this policy. The Title IX Office is responsible for the intake of reports related to Title IX, implementation of supportive measures, investigation and resolution of formal complaints, community education related to Title IX issues and concerns, and other measures to further the goal of eliminating sexual misconduct at Terra.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, Complainant must contact the Vice President for Academic Affairs. Complainant should report to the Title IX Coordinator concerns of bias or potential conflict of interest by any other member of the Title IX Office.

Complainant should report to the Vice President of Academic Affairs concerns of potential misconduct or discrimination committed by the Title IX Coordinator. Complainant should report to the Title IX Coordinator concerns of potential misconduct or discrimination committed by any other member of the Title IX Office.

6. Obligations of Employees to Report Sexual Misconduct

All college administrators, faculty, and staff (with the exception of those identified as confidential resources) have a duty to immediately report violations of this policy to the Title IX Coordinator if they receive a complaint of a violation or observe or learn of conduct that is reasonably believed to be in violation of this policy.

In addition, Section 2921.22 of the Revised Code requires every person who knows that a felony has been or is being committed, to report it to law enforcement. It is a criminal offense to knowingly fail to make the report.

Complainants should consider if they want to share information regarding behaviors under this policy with non-confidential mandatory reporters, as all details of potential violations must be promptly reported to the Title IX Coordinator so that supportive measures and options may be made available to complainants.

7. Officials with Authority (OWAs)

OWAs are employees of the College with the authority to implement corrective measures for sexual harassment, other sexual misconduct, and retaliation on behalf of the College. Notice to any OWA constitutes actual knowledge under this policy. For purposes of this policy, the following employees have been designated as OWAs: Title IX Coordinator and Deputy Title IX Coordinator, President, Vice President of Academic Affairs, Vice President of Student Affairs, Deans, Athletic Director, and Human Resources Manager.

8. Clery Act Timely Warning Obligations

Under the Clery Act, the College must issue timely warning for incidents reported to the College that fall under the definitions of sexual assault, domestic violence, dating violence, or stalking and pose a serious or continuing threat of bodily harm or danger to members of the campus community. The College will strive to 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 potential danger. The College also collects and shares de-identified statistical information regarding reported incidents as required by the Clery Act.

Procedures

Any person may report sexual misconduct, whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sexual misconduct. There is no time limitation on providing notice/reporting to the Title IX Coordinator. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be limited or impossible.

Under the Clery Act, the College must issue timely warning for incidents reported to the College that fall under the definitions of sexual assault, domestic violence, dating violence, or stalking and pose a serious or continuing threat of bodily harm or danger to members of the campus community. The College will strive to 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 potential danger. The College also collects and shares de-identified statistical information regarding reported incidents as required by the Clery Act.

1. How to File a Formal Complaint

A formal complaint may be filed with the Title IX Coordinator in person, by mail, by email, or through the College Incident Reporting Form. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an education program or activity of the College.

The complainant must submit a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

The College will not delay its investigation pending an outcome of any criminal investigation. Students and employees may initiate a College complaint with or without pursuing criminal charges.

The College reserves the right to investigate circumstances that may involve sexual misconduct in situations where no complaint, formal or informal, is filed.

All College proceedings are conducted in accordance with the requirements of Title IX, the Clery Act, the Violence Against Women Act, Family Educational Rights and Privacy Act (FERPA), state and local law, and College policy and procedure. No information, including the identity of the parties will be released from such proceedings except as required or permitted by law or College policy or procedure.

- a. Contact the Title IX Coordinator:

Title IX Coordinator: Chari Mullen

Building A, Roy Klay Hall, Room 201-B

(419) 559-2330

- b. Complete and submit an online Incident Reporting Form, available 24 hours per day, at: www.terra.edu. At the bottom of the webpage you'll find a link, "Report a Concern"

If you are in danger or in need of immediate assistance, call:

- 9-1-1, or

- Campus Safety — (419) 559-2253 or
- Fremont Police Department — (419) 332-6464
- If you are in need of medical treatment, go to your nearest hospital or urgent care facility.

c. Inquiries and complaints 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
Fax: (202) 453-2172
TDD: (877) 521-2172
Email: OCR@ed.gov
Web: <http://ed.gov/ocr>

2. How to File an Anonymous Complaint

Anonymous complaints may be made and can give rise to a need to investigate. The College tries to provide supportive measures to all Complainants; however, this support is not possible in the event of an anonymous report. File a “Report Concern” form is found in the “Report Concern” link at the bottom of the college home page www.terra.edu.

3. How to File a Criminal Complaint

Actions reported in a criminal complaint process will be reviewed to identify violations of the Ohio Revised Code and follow the process of the applicable jurisdiction with regard to determination and investigation of criminal charges. Note: reporting to law enforcement does not require that criminal charges be pursued.

In some circumstances, there is a duty to report allegations of criminal conduct to law enforcement authorities. Section 2921.22 of the Ohio Revised Code requires any individual who knows that a felony has been or is being committed, to report it to law enforcement authorities. If the complaint contains sufficient detailed information about conduct that may constitute a crime, the matter will be reported to the College’s Department of Campus Safety.

To Initiate a Criminal Complaint:

- a. Call 9-1-1, OR
- b. Report to the College Department of Campus Safety — (419) 559-2253

Note: If the incident did not occur on College-controlled property or at a College-sponsored event, the complainant should report to local law enforcement. If the complainant files a report with off-campus law enforcement and the incident creates an impact on campus, the complainant should initiate a College Complaint.

4. Evidence Preservation

The preservation of evidence in incidents of sexual assault is critical to potential criminal prosecution and obtaining protection orders, and is particularly time-sensitive. A medical evidentiary examination provides documentation of the assault, identification of any injury, and forensic evidence collection. It is important for health, safety, and evidence collection to have an exam as soon as possible after a sexual assault. Please seek treatment at a local hospital or urgent care facility as soon as possible.

5. Privacy

Every effort is made by the College to preserve the privacy of reports and of the identities of those involved in the process. This information will not be shared except as necessary to carry out the purposes of Title IX regulations (34 CFR Part 106), as required by law, or as permitted by the Family Educational Rights and Privacy Act (FERPA).

Information related to reports will be shared with a limited number of College employees who “need to know” in order to respond to the report and/or assist in its assessment, investigation, and resolution. The College has sole discretion to determine which officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to FERPA.

When a formal complaint is submitted by the Complainant or signed by the Title IX Coordinator, the Complainant’s identity and the allegations made in the report must be disclosed to the Respondent. Further, the parties and their advisors will have the opportunity to review all directly related evidence that is gathered during the grievance process.

If a report contains sufficiently detailed information about conduct that may constitute a felony, the matter will be reported to law enforcement, as discussed elsewhere in this policy. Additionally, if any party involved in alleged sexual misconduct is a minor, College will notify Job and Family Services or other appropriate agencies, as required by Ohio law.

6. Confidential Alternatives to Criminal or College Complaint

A confidential report will not result in a report to law enforcement or a College investigation.

- a. Counseling Services — Information can be shared confidentially with licensed counselors by calling (419) 559-2367 or (419) 559-2369, or emailing counseling@terra.edu, or by contacting ProMedica 24-hour Counseling Services at (866) 327-3759.
- b. Employee Assistance Program (EAP) — Information can be shared through the EAP by calling (866) 327-3759.
- c. Off-campus resources — Licensed professional counselors and other medical providers, local rape crisis centers, domestic violence resources, local or state assistance agencies, clergy/chaplains and/or attorneys.

7. Supportive Measures

Supportive measures are available to the Complainant and Respondent to ensure equal education access,

protect safety, or deter sexual harassment and/or retaliation. These measures are individualized and non-disciplinary, non-punitive, without fee or charge, and not unreasonably burdensome to the other party.

The Title IX Coordinator (or designee) is responsible for coordinating reasonable supportive measures. Upon notice of a sexual misconduct allegation, the Title IX Coordinator shall promptly contact the Complainant to evaluate the Complainant's wishes for supportive measures and discuss the availability of such measures. A formal complaint does not need to be filed for a Complainant to receive supportive measures; however, the Complainant will be informed on how to file a formal complaint if they wish to do so. Additional supportive measures will also be provided to a Complainant whenever a Respondent is found responsible.

The College will maintain the party's privacy when supportive measures are provided, on the condition that privacy does not impair the College's ability to provide the supportive measures.

Supportive measures may include, but are not limited to:

- Referral to counseling services, mental, and/or other health services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid assistance
- Education to the community or community subgroup(s)
- Altering work agreements for employees or student-employees
- Safety planning
- Providing campus security escorts
- Implementing contact limitations between parties
- Academic support, extensions, or other course or program related adjustments
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of campus
- Any other actions deemed appropriate by the Title IX Coordinator

8. Emergency Removals

- a. The College reserves the right to remove a Respondent from a College program or activity on an emergency basis if the Respondent cannot safely participate in an educational program or activity while the College investigates and resolves the allegations of sexual misconduct. An individualized safety and risk analysis will determine whether there is an immediate physical threat to the health or safety of students or other individuals arising from the allegation of sexual misconduct.
- b. In the case of an emergency removal, the Respondent will be provided written notice and will be an opportunity to meet with the Title IX Coordinator before 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. When this meeting is not requested with two (2) business 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 applies to any restrictions that a coach or athletic administrator may place on a student-athlete from Title IX allegations. 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 these procedures to implement or stay an emergency removal and determine its conditions and duration. There is no appeal process for emergency removal decisions.

- c. Violation of an emergency removal under these procedures will be grounds for discipline, which may include expulsion or termination from the College.
- d. The College will implement the least restrictive emergency actions possible regarding the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions include, but are not limited to:
 - i. temporarily re-reassigning or relocating an employee
 - ii. restricting a student's or employee's access to or use of facilities or equipment
 - iii. allowing a student to withdraw or take grades of incomplete without financial penalty
 - iv. authorizing an administrative leave
 - v. suspending a student's participation in extracurricular activities, student employment, student organizational leadership or intercollegiate athletics

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

If it is determined that the Respondent is no longer an immediate threat, the respondent will be immediately reinstated to pre-emergency removal status.

9. Amnesty for Drug and Alcohol Use Violations

The College grants amnesty to students who may have violated alcohol and/or drug provisions of the College’s Student Code of Conduct at the same time of the incident when he or she became a victim of sexual assault. Therefore, no alcohol or drug charges are applied to a student who reports that he or she was under the influence of alcohol or drugs at the time of a sexual assault.

10. Investigations

Investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses, to the extent possible, obtaining available, relevant evidence, and identifying sources of expert information as necessary.

- a. Upon receipt of a formal complaint, the Title IX Coordinator (or designee) will conduct a brief, initial assessment to gather enough key information to inform decisions about jurisdiction, threat, emergency removal, and other critical topics key to the investigation.
- b. The College must investigate all formal allegations and send written notice to the Complainant(s) and Respondent(s). The written notice will include:

- i. The identities of the parties (if known).
- ii. The specific section(s) of policy alleged to have been violated.
- iii. The conduct that would be considered sexual harassment/misconduct.
- iv. The date(s) of the incident(s).
- v. The location(s) of the incident(s).
- vi. A statement that the respondent is presumed to be "not responsible" for the alleged conduct until a determination is made after the grievance process.
- vii. A statement that the parties may have an advisor of their choice, who may be, but need not be an attorney.
- viii. A reminder of the expectation of truthfulness in the grievance process, including the consequences of providing false statements or submitting false information.
- c. The burden of gathering evidence and burden of proof will remain with the College, not the involved parties.
- d. The investigation does not consider:
 - i. Incidents not directly related to the possible violation, unless they evidence a pattern
 - ii. the character of the parties
 - iii. 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 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.
- e. The College will send written notice of any investigative interviews, meetings, or hearings that will include the date, time, location, participants, and purpose of the investigative interview, meeting, or hearing.
- f. The College will provide equal opportunity for the parties to present facts, witnesses, and other evidence (both inculpatory and exculpatory evidence).
- g. The College will not restrict the ability of the parties to discuss the allegations or gather evidence.
- h. No unauthorized audio or video recording of any kind is permitted during investigation meetings. If the Title IX Coordinator elects to audio record and/or video record interviews, all parties must be aware of the audio and/or video recording.
- i. Parties will have the same opportunity to select an advisor of their choice who may be, but need not be, an attorney.
- j. The College will send to the parties, and to their advisors, evidence directly related to the allegations, in electronic format or hard copy, with at least ten (10) calendar days for the parties to inspect, review, and respond to the evidence.
- k. The College will send to the parties, and to their advisors, a comprehensive investigative report that fairly summarizes relevant parts of the investigation, witness interviews, and relevant evidence, in electronic format or hard copy, with at least ten (10) calendar days for the parties to respond.
- l. The investigative report will make non-binding conclusions based upon investigative facts. The decision-maker will make the final, objective evaluation at the conclusion of the live hearing.
- m. The investigative report will not be finalized until the review period for the parties is complete. Necessary revisions and relevant elements of the parties' written responses will be incorporated into the final report. The rationale for any changes made after the review and comment period will be documented.

- n. Once the final investigative report is complete, the report will be 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 will also be provided with a file of any directly related evidence that was not included in the report.
- o. The College will dismiss, under Title IX, any allegation against a person in the U.S. that does not meet the definition of sexual misconduct or did not occur in the College's education program or activity. If dismissed, the College may still investigate using alternative processes.
- p. The College may dismiss a formal complaint or allegations therein:
 - i. If the Complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein.
 - ii. If the Respondent is no longer enrolled or employed by the College, or if specific circumstances prevent the College from gathering sufficient evidence to reach a determination.

If the Respondent is no longer enrolled or employed by the College at any point before the investigation process is complete, upon withdrawal, the Respondent may be barred from College property and events and may be ineligible for re-enrollment or rehire.

- q. The College will give written notice of dismissal and the reasons for the dismissal.
- r. The College may consolidate formal complaints where the allegations arise out of the same facts.
- s. An involved party's medical, psychological, and similar treatment records cannot be accessed by the College unless the party provides voluntary, written consent to do so.

11. Informal Resolution

An informal resolution may occur at any time before reaching a determination regarding responsibility and may include the use of alternative resolution procedures such as mediation, restorative practices, and other alternative resolution procedures in limited circumstances. An informal resolution does not involve a full investigation and adjudication. For an informal resolution to occur, both parties must agree to resolve a report informally rather than through formal investigation and resolution. The Title IX Coordinator must support the resolution informally by providing agreed-upon remedies to resolve the situation. Informal resolutions will not be permitted in employee-student cases.

An informal resolution may be permitted if the following criteria are met:

- A formal complaint has been filed.
- A determination of responsibility has not been reached.
- Both parties provide written and voluntary consent to use the informal process.

The parties participating in the informal resolution process will be provided with written notice that includes:

- a. The reported misconduct/allegations.
- b. The requirements of the informal resolution process, including the circumstances under which, once completed, it precludes the parties from changing their minds and reverting to a formal grievance process.
- c. The right of the parties to withdraw from the informal resolution process and resume the formal grievance process.
- d. Any consequences resulting from participating in the process, including what sanctions could result, as well as any records that will be maintained and/or could be shared.

- e. Whether the resolution would be binding on the parties.

12. Live Hearing

Once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a live hearing. The hearing cannot be less than ten (10) business days from the investigation's conclusion unless all parties and the Decision Makers agree to an expedited timeline.

A live hearing will be required to decide whether a Respondent is "responsible" for violating this procedure. A live hearing will consist of the decision-makers (Chair and Hearing Panel), complainant and respondent and their advisors, and any relevant witnesses.

- a. The notice of the hearing will include the following elements:
 - i. Date
 - ii. Time
 - iii. Location
 - iv. A list of all those who will be attending the hearing, along with an invitation to object to any decision-maker based on demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days before the hearing.
 - v. Any technology that will be used to facilitate the hearing.
 - vi. Information about the live hearing option to occur with the parties in separate rooms using technology that enables the decision-makers and parties to see and hear all parties answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
 - vii. Information on how the hearing will be recorded and how the recording will be accessible to the parties after the hearing.
 - viii. A statement that if any party or witnesses does not appear at the scheduled hearing, the hearing may be held in their absence and that the decision-makers may consider the absent party's testimony or any statements given before the hearing. For compelling reasons, the hearing may be rescheduled.
 - ix. 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 during the hearing of the other party and/or witness(es). The party must notify the Title IX Coordinator at least five (5) business days prior to the hearing if they do not have an advisor, and the College will appoint one.
 - x. An invitation to each party to submit to the decision-makers an impact statement pre-hearing that the decision-makers will review during any sanction determination.
 - xi. A description of the alleged policy violation(s)
 - xii. Applicable procedures
 - xiii. Potential sanctions
 - xiv. Purpose of the hearing
 - xv. 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. The party must notify the Title IX Coordinator at least seven (7) business days prior to the hearing.
- b. 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 Chair at least five (5)

business days before the hearing.

The Title IX Coordinator or the Chair may arrange to use technology to allow remote testimony without compromising the hearing's fairness. 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 Chair know at least five (5) business days prior to the hearing to make appropriate arrangements.

- c. The parties will be given a list of the decision-makers' names in the hearing notice. 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 two (2) business days before the hearing. Decision-makers 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).
- d. Participants at the hearing will include the decision-makers, the Title IX Coordinator who conducted the investigation (or designee who conducted the investigation process), the parties, advisors to the parties, called witnesses, and anyone providing authorized accommodations or assistive services. Witnesses will be invited to appear at a portion of the hearing to respond to specific questions from the decision-makers and the parties and then be excused.
- e. The order of the hearing will include:
 - i. the Chair of the Hearing Panel will explain the procedures and will introduce participants
 - ii. the Title IX Coordinator will present a summary of the final investigation report and will be subject to questioning by the decision-makers and the parties (through their advisors)
 - iii. parties and witnesses will be invited to provide relevant information beginning with the Complainant, Respondent, and witness(es) and will be subject to questioning by the decision-makers and the parties (through their advisors)
 - iv. the decision-makers will deliberate in closed session to determine whether the Respondent is responsible or not-responsible for the policy violation(s) in question, using the preponderance of evidence standard
 - v. if there is a finding or responsibility on one or more of the allegations, the decision-makers may consider the previously submitted party impact statements in determining appropriate sanctions
 - vi. the Chair of the Hearing Panel will then prepare a written deliberation statement within two (2) business days of the end of deliberations
 - vii. using the deliberation statement, the Chair of the Hearing Panel will prepare a notice of outcome, which will include final determination, rationale, and any applicable sanction(s), for the parties and their advisors within five (5) business days of receiving the decision-makers' deliberation statement
- f. Cross-Examination — At the live hearing, each party's advisor must be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Cross-examination must be conducted by the advisor (the only portion of the hearing in which the advisor may actively participate). It must be conducted directly, orally, and in real-time, with virtual avenues permitted (at the request of either party). Cross-examination must exclude evidence of the Complainant's prior sexual behavior or predisposition unless evidence regarding the complainant's sexual behavior is offered to prove that someone other than the respondent committed the sexual misconduct or proves consent.

- The advisor will post the question orally;
- The proceeding will pause, while the Chair of the live hearing considers the question, and then determines its relevance, and explains their determination on-the-record;
- Based on this determination, the Chair will direct the party or witness whether or not to respond to the advisor's posed question.

Should a party choose not to submit to cross-examination at the hearing, either because of non-attendance at the hearing or because the party refuses to participate in the cross-examination questioning, the Hearing Panel may rely on any prior statement made by that party or witness in the ultimate determination of responsibility. This includes those contained in the investigation report or made at the hearing. The Hearing Panel will not draw inference solely from any refusal to participate in the live hearing process.

- g. Hearings (excluding deliberations) will be recorded by the College for purposes of review in the event of an appeal. Parties may not record the proceedings, and no other unauthorized recordings are permitted.

13. Notice of Outcome

- a. The Hearing Panel chair will provide written determination of responsibility for each allegation to be shared with the parties simultaneously. This written determination will include:
 - i. The section (s) of College policy or procedure alleged to have been violated.
 - ii. The standard of evidence that was used in the decision-making process.
 - iii. A description of the procedural steps taken, from the receipt of the formal complaint through the hearing, including any notifications made to the parties, interviews with the parties and witnesses, site visits, or other mechanisms used to gather evidence, to the hearing held.
 - iv. Findings of fact that support the determination.
 - v. Conclusions regarding the application of the "findings of fact" to the alleged violations
 - vi. A statement of, and rationale for, the result as to each alleged violation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the respondent, and whether the College will provide remedies designed to restore or preserve equal access to the College's education program or activity to the complainant.
 - vii. Procedures for the appeal, including the bases upon which the parties may appeal.
- b. If, based on a preponderance of the evidence, it is found that a violation of the Equal Employment Opportunity Policy and this associated sexual misconduct procedure has occurred, the parties will be immediately and simultaneously notified of the finding in writing.
- c. Notification of the determination can be expected within sixty (60) calendar days of the formal report. If circumstances require more time for completion of the investigation and review, the parties will be notified of the reason for the delay and advised of subsequent timeframes for completion of the investigation and review.
- d. The simultaneous written notice to both parties of the complaint's outcome will include a notice of

and option to appeal.

14. Sanctions and Remedies

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

- a. The nature and severity of, and circumstances surrounding the violation(s)
- b. The Respondent's disciplinary history
- c. Previous allegations or allegations involving similar conduct
- d. The need for sanctions to bring an end to the discrimination, harassment, and/or retaliation
- e. The need for sanctions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- f. The need to remedy the effects of the discrimination, harassment, and/or retaliation on the complainant and the community
- g. The impact on the parties
- h. Any other information deemed relevant by the decision-makers

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the window's expiration 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.

- a. Student sanctions — Sanctions for violations of this procedure by a student will be imposed in accordance with the College's Student Code of Conduct. If the respondent is found responsible during a student conduct hearing, the extent of sanctions will be determined by the Hearing Panel.
- b. Employee Sanctions — If the respondent is found responsible, the extent of the sanctions will be determined by Human Resources in accordance with the College's Standards of Conduct/Disciplinary Process policy and/or disciplinary provisions of the applicable collective bargaining agreement.
- c. Types of Sanctions — Sanctions that could be imposed for a violation of this procedure include, but are not limited to:
 - i. warning
 - ii. probation
 - iii. performance improvement plan (employees)
 - iv. loss of privileges
 - v. loss of responsibilities or demotion (employees)
 - vi. written warning
 - vii. suspension
 - viii. expulsion (academic) or termination (employment/third party contract).
- d. Additional remedies for the campus community to remedy the effects of sexual misconduct may include, but are not limited to:
 - i. counseling or other victim services to all campus community members affected by sexual misconduct
 - ii. enhanced prevention-based programming
 - iii. focused training sessions
 - iv. developing and distributing materials on sexual misconduct
 - v. ensuring communication between Title IX Coordinator and Campus Safety
 - vi. conducting campus climate assessments to assess the effectiveness of efforts.

15. Withdrawal or Resignation with Charges Pending

- a. Students — If a student has an allegation pending for violation of these procedures, the College may place a hold on a student's ability to register for future classes, graduate, and/or receive an official transcript/diploma.

Should a student decide not to participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student respondent permanently withdraw from the College, the resolution process ends, as the College no longer has disciplinary jurisdiction over the withdrawn student.

However, the 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 harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to the College until the allegations are resolved (if possible). Such exclusion applies to all campuses of the College. A hold will be placed on their ability to be readmitted. They may also be barred from College property and/or events.

- b. Employees — Should an employee respondent resign with unresolved allegations pending, the resolution process ends, as the College no longer has disciplinary jurisdiction over the resigned employee.

However, the College will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

The employee who resigns with unresolved allegations pending is not eligible for rehire with the College, and the records retained by the Title IX Coordinator will reflect that status.

All College responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

16. Appeal Procedures

Both parties are provided the opportunity to appeal a determination regarding responsibility or the College's decision to dismiss a formal complaint. Parties will have five (5) business days from when the written notice of outcome was sent to appeal. The College will determine the appeal body and will communicate it in the written outcome determination letter. The appeal body will be free of bias and conflict of interest.

Appeals are not intended to provide a full re-hearing of the allegation(s), and 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.

The appellate process is available to the complainant and respondent on the following basis:

- A procedural irregularity that affected the outcome on the matter
- New evidence that was not reasonably available at the time the determination

regarding responsibility or dismissal was made, that could have affected the outcome of the matter

- The Title IX Coordinator, Deputy Title IX Coordinator(s), or any member of the Hearing Panel had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

Requests for appeals must be submitted in writing to the Title IX Coordinator (or whoever has been specified as the appeal body in the written outcome determination letter) within five (5) business days. The request for appeal must articulate the ground(s) upon which the party has based their request for an appeal.

Upon request for an appeal from either party, the appeal body will notify each party in writing and give the parties five (5) business days, and equal opportunity, to submit a written statement to support or challenge the outcome.

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 the College is permitted to share according to state or federal law. The rationale supporting the essential findings is the extent the College is permitted to share under state or federal law. Once an appeal is decided, the outcome is final; further appeals are not permitted, even if a decision or sanction is changed on remand.

17. Prevention and Education

The College subscribes to Safe Colleges, which is a web-based set of programs. The programs provide education to promote the awareness of sexual assault, domestic violence, and stalking, which include primary prevention and awareness programs for incoming students and new employees, as well as ongoing prevention and awareness programs for students and faculty.

Definitions

Term

Definition

<i>Advisor</i>	A person chosen by a party or appointed by the College to accompany the party to meetings related to the Title IX resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any. Advisors can refuse a request to advise and are cautioned to avoid conflicts of interest. A party’s advisor will not be limited and could include but is not limited to, a faculty member, staff member, coach, attorney, parent, friend, labor union representative, or community resource/advocate.
<i>Coercion</i>	Unreasonable pressure for sexual activity or sexual contact against a person’s will.
<i>Complainant</i>	The individual who is alleged to be the victim of conduct that could constitute sexual misconduct, or retaliation for engaging in a protected activity.

<i>Complaint (formal)</i>	A document filed/signed by a Complainant or signed by the Title IX Coordinator alleging sexual misconduct or retaliation for engaging in a protected activity against a Respondent and requesting that the College investigate the allegation.
<i>Consent</i>	Knowing, voluntary, and clear permission by word or action to engage in sexual activity. It is the responsibility of each party to determine that the other has consented before engaging in 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 onset is strongly encouraged. For consent to be valid there must be a clear expression of words, or action(s) that the other individual consents to the specific sexual conduct. Reasonable reciprocation can be implied. Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, the sexual activity should cease within a reasonable time. Consent to some sexual contact cannot be presumed to be consent for other sexual activity. A current or previous intimate relationship is not sufficient to constitute consent.
<i>Confidential Employee</i>	An employee of the College, who by role is designated as a confidential resource for the campus community to discuss sexual misconduct without automatically triggering a report to the Title IX Coordinator. The campus counselor is designated as such and can be reached by phone or email. Contact 419-559-2367 or send an email to counseling@terra.edu for assistance.
<i>Decision Maker</i>	A panel of individuals identified and trained by the College, including a Chair of the panel that is utilized in the live hearing process. The decision maker is free of conflict of interest with any specific party and free of bias for or against any parties generally or a conflict of interest with any specific party. The decision maker is trained on: <ul style="list-style-type: none"> • The definitions of sexual harassment and other offenses • The scope of the College’s programs and activities • How to conduct fair and impartial investigations • Any and all of the College’s grievance processes • Any technology to be used at a live hearing • Issues of relevance for both questions and evidence
<i>Education Program or Activity</i>	Locations, events, or circumstances where the College exercises substantial control over both the Respondent and the context in which the sexual misconduct occurs and also includes any building owned by the College.
<i>Final Determination</i>	A conclusion by the preponderance of evidence that the alleged conduct occurred and whether it did or did not violate policy.
<i>Finding</i>	A conclusion by the preponderance of evidence that conduct did or did not occur as alleged.

<i>Force</i>	The use of physical violence and/or physical imposition to gain sexual access. Force includes threats, intimidation, and coercion that is intended to overcome resistance or produce consent.
<i>Grievance Process</i>	A method of resolution designated by the College to address conduct that falls within this policy and procedure.
<i>Incapacitation</i>	Someone cannot make rational, reasonable decisions due to lack of capacity to give knowing/informed consent.
<i>Mandated Reporter</i>	An employee of the College who is obligated by this procedure to immediately share knowledge, notice, and/or reports of sexual misconduct and/or retaliation with the Title IX Coordinator. This includes the President, Vice Presidents, officers within the Department of Campus Safety, all Deans, Chairs, Directors, Department Heads, Student Organization Advisors, Academic Advisors, Career and Transfer Advisors, Advocates, admissions staff, human resources staff, and Athletic Coaches. All mandated reporters must promptly share all details under these procedures with which they observe or have knowledge.
<i>Notice</i>	An employee, student, or third-party informs the Title IX Coordinator of an alleged occurrence of sexual misconduct and/or retaliatory conduct.
<i>Officials with Authority (OWA)</i>	Individuals as designated by the College with the authority to institute corrective measures on behalf of the College. These individuals include the Title IX Coordinator and designated Deputy Title IX Coordinators.
<i>Parties</i>	Include the complainant(s) and respondent(s), collectively.
<i>Preponderance of Evidence</i>	The standard of evidence used to determine whether a violation has occurred and means “more likely than not.”
<i>Remedies</i>	Post-finding actions directed to the complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the College’s education program.
<i>Respondent</i>	Individual who has been reported to be the perpetrator of conduct that could constitute sexual misconduct, or retaliation for engaging in a protected activity.
<i>Resolution</i>	The result of an informal or formal grievance process.
<i>Retaliation</i>	The College or any other person may not intimidate, threaten, coerce, or discriminate against any individuals for the purpose of interfering with any right or privilege secured by these procedures, 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. These protections are provided to anyone engaged with the process as outlined in this procedure, a grievance process related to an original allegation of this procedure, or what could have been an allegation of this procedure.
<i>Sanction</i>	A consequence imposed by the College on a respondent who is found to have violated College policy or procedure.

<i>Sexual misconduct</i>	Includes sexual harassment, sexual assault, dating violence, domestic violence, stalking, and any discrimination based on sex, including sex stereotyping, program exclusion, pregnancy and other forms of disparate
<i>Supportive Measures</i>	Individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.
<i>Title IX Coordinator</i>	The official designated by the College to ensure compliance with Title IX and the College’s Title IX program. References to the Title IX Coordinator throughout these procedures may also encompass a designee (Deputy) for specific tasks.

Resources

Inquiries regarding sex discrimination also may be directed externally

to: Office for Civil Rights (OCR)

400 Maryland Avenue, SW

Washington, D.C. 20202-

1100

Customer Service Hotline: (800) 421-3481

Email: OCR@ed.gov

Web: <http://www.ed.gov/ocr>

[Equal Employment Opportunity, Consensual Relationship Policy, Amnesty for Drug and Alcohol Use Violation Policy, FERPA, Cleary Act, Behavior Intervention Team, Employee Assistance Program]

Contacts

Contact Name	Position	Email	Phone/Ext
<i>Chari Mullen</i>	Title IX Coordinator Building A, Roy Klay Hall, A201-H	Cmullen01@terra.edu	(419) 559-2330
<i>Dr. Cory Stine</i>	Deputy Title IX Coordinator for Students, Senior Vice President of Innovation and Strategic Planning Building B, General Technologies, B205	cstine@terra.edu	419-559-2355
<i>Jacque A. Foos</i>	Deputy Title IX Coordinator for Employees, Vice President of Financial Affairs Building B, General Technologies , B208	jafoos@terra.edu	(419) 559-2370

History

Date	Notes
<i>4/23/2014</i>	Issued
<i>3/31/2016</i>	Revision 1
<i>11/17/2016</i>	Revision 2
<i>9/27/2018</i>	Revision 4
<i>3/18/2021</i>	Revision 5
<i>9/01/2021</i>	Revision 6
<i>7/19/2022</i>	Revision 7

