

# **Garrett College McHenry, Maryland**



## **Sexual Harassment and Misconduct Procedures**

**May 2019**

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**Garrett College**

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687 Mosser Road, McHenry, Maryland 21541  
[www.garrettcollege.edu](http://www.garrettcollege.edu)

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## Policy Statement

Garrett College is dedicated to ensuring all members of the college community- students, faculty, staff and administrators- the right to work and learn in an environment free from intimidation or coercion in any form. College policies have been established to promote an educational and work atmosphere free from the threat of harassment or assault. The College follows its Equity Grievance Policy to address all reports of harassment and discrimination. The full policy can be found at <https://www.garrettcollege.edu/policy.php>. This document offers guidance as it pertains to sexual harassment and misconduct procedures under the Equity Grievance Policy.

## Prohibited Conduct and Definitions

The follow section attempts to define prohibited conduct in relation to sexual harassment and misconduct. The College prohibits all forms of sexual and gender-based harassment, including sexual violence and intimate partner violence. Definitions in this section are taken from the Violence Against Women Act and the FBI Uniform Crime Reporting Program.

### Prohibited Conduct

**Sexual Harassment** is defined as unwelcome verbal or physical conduct of a sexual nature that is sufficiently severe, persistent, or pervasive and objectively offensive such that it unreasonably interferes with, limits, or deprives someone of the ability to participate in or benefit from the College's educational programs or employment opportunities. The unwelcome behavior may be based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation. A single instance of sexual assault may be sufficient to constitute a hostile environment. Further examples include:

- Unwelcome sexual advances or propositions that interfere with one's education or employment opportunities
- Unwelcome statements, jokes, gestures, pictures, intentional nonconsensual touching of an intimate body area, gender-based bullying, stereotyping, or other conduct that demeans, harasses, or intimidates
- Coercion or an attempt to coerce an unwilling person into a sexual relationship
- Repeatedly subjecting a person to unwelcome sexual attention

**Gender Discrimination or Gender Harassment** includes discrimination or verbal/physical harassment which is based on the person's gender but which is not sexual in nature; may include discrimination or sexual misconduct on the basis of sexual orientation, gender identity or gender expression, and harassment or discrimination on the basis of sex-stereotyping.

Conduct that may be considered sexual harassment falls into five categories: physical, verbal, visual, written, or quid pro quo.

**Physical Conduct** is unwelcomed touching, sexual/physical assault, impeding, restraining, or blocking movement; unwanted sexual advances within the educational or employment context.

**Verbal Conduct** is verbal abuse of a sexual nature, graphic verbal comments about an individual's body, sexually degrading words used to describe an individual; objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit

statements, questions, jokes or anecdotes.

**Visual Conduct** is severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading sexually oriented images that are not pedagogically appropriate.

**Written Conduct** is letters, notes, or electronic communications containing comments, words, or images as described in visual conduct.

**Quid Pro Quo Conduct** is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational development or performance. Examples include:

- Seeking sexual favors or relationships in return for the promise of a favorable grade or other academic opportunity
- Basing an employment-related action (hiring, salary increase, performance appraisal rating, promotion, etc.) on a sexual favor or relationship
- Punishing a refusal to comply with sexual advances

Additional conduct that is prohibited under this policy is as follows (please note that each specific prohibited conduct may also be a form of sexual harassment):

**Non-Consensual Sexual Intercourse-** any act of sexual intercourse with another individual without effective consent. Sexual intercourse includes vaginal or anal penetration, however slight, with a body part (penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact. Can include also include the removal or dismissal of contraceptives where a reasonable expectation of their use has been established.

**Non- Consensual Sexual Contact-** any intentional touching of the intimate parts of another person, causing another to touch one's intimate parts, or disrobing or exposure of another without effective consent. Intimate parts may include the genitalia, breast, buttocks, groin, or clothing covering those parts, or any other part of the body that is touched in a sexual manner. Sexual contact also includes attempted sexual intercourse.

**Sexual Exploitation-** any act which takes non-consensual or abusive sexual advantage of another individual, either for their own advantage or benefit, or for the advantage or benefit of anyone other than the one being exploited. This behavior can include, but is not limited to, unwanted exposure to pornography, voyeurism, and the use of electronics to capture image or video of a sexual act without consent or knowledge of involved parties.

**Stalking-** engaging in a course of conduct directed at a specific person that would cause reasonable fear for his or her safety or the safety of others; or suffer substantial emotional distress". Stalking behaviors may include but are not limited to repeated: abusive and excessive contact and/or monitoring phone calls, voice mails, emails, instant messaging, text messages, and/or social media to one's home or work; trespassing; following and/or threatening an individual or a person's friends and relatives; driving/walking by a person's home, school, and/or work; or vandalizing property.

**Intimate Partner Violence-** While not included in this policy as a specific form of sexual misconduct, intimate partner violence or dating and domestic violence, includes "any act or

threatened act of violence against a person who is, or has been involved in, a sexual, dating, domestic, or other intimate relationship. Behaviors may include, but are not limited to, physical, sexual, and emotional violence that may occur once or be ongoing.

## Consent

**Effective Consent** is defined as willingly, freely, and knowledgably agreeing to engage in sexual conduct. Consensual sexual conduct is a mutual decision reached by all parties involved without any hint of force, threat, coercion, fraud, manipulation, intimidation, or reasonable fear of injury. Consent cannot be given if an individual is mentally or physically incapacitated (for example, due to excessive use of alcohol or drugs or a mental or physical condition). Silence, passivity, lack of active resistance or lack of active response does not imply consent. In addition, previous participation in sexual activity does not indicate current or future consent to participate. Consent to one form of sexual activity does not imply consent to other forms of sexual activity.

Essential elements of effective consent include:

- All parties share a clear and mutual understanding of the act to which they are consenting with a willingness to do the same thing at the same time.
- Consent consists of mutually understandable verbal or physical communication to demonstrate a willingness to engage in sexual activity. Without clear communication or outward demonstration, there is no consent.
- Consent can be withdrawn at any time. Withdrawal of consent can be an expressed “no” or can be based on a clear outward demonstration that conveys that an individual is hesitant, confused, and uncertain or no longer a mutual participant. Once withdrawn, all sexual activity must stop until consent to continue is mutually agreeable.

## Reporting

Any member of the campus community, guest or visitor who believes that they have been a victim of or know of an alleged violation of the Equity Grievance Policy should contact the Director of Equity and Compliance. Complaints or concerns involving the Director of Equity and Compliance should be directed to the President's office.

It is also possible for employees to notify a supervisor, or for students to notify an administrative advisor or faculty member. Any member of the campus community, including visitors, may contact Campus Security to make a report. These individuals will in turn notify the Director of Equity and Compliance.

All employees receiving reports of a potential violation of College policy are expected to promptly contact the Director of Equity and Compliance, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with privacy: specific information on any allegations received by any party will be reported to the Director of Equity and Compliance, but, subject to the College's obligation to redress violations, every effort will be made to maintain the privacy of those initiating an allegation. In all cases, Garrett College will give consideration to the reporting party with respect to how the reported misconduct is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution even when a reporting party chooses not to initiate or participate in the resolution process.

### Emergency Reporting Options

Emergency reporting options include law enforcement and medical services. College officials can aid in reporting or provide transportation for medical services as needed.

#### Law Enforcement

- Garrett County Sheriff's Department: Emergencies: 911, Main Office: 301-334-1911
- Maryland State Police- McHenry Barracks: Emergencies: 911, Main Office: 301-387-1011

#### Medical Services

- Garrett Regional Medical Center (Provides Sexual Assault Forensic Exams): 301-533-4000
- Garrett College Health Department: 301-334-7777
- Western Maryland Heath Systems (Provides Sexual Assault Forensic Exams): 240-964-1300

### Campus Reporting and Resource Options

Campus reporting options include Title IX Coordinators, the Title IX Investigators, and the Garrett College Security Department. Note: as all employees are deemed as mandatory reporters, information that is disclosed to non-confidential employees will be reported to the Title IX Office.

#### Title IX Coordinators

The Title IX Coordinators are designated to oversee all reports of sexual misconduct at the College and are responsible for the initial assessment, investigation, and resolution process in relation to all reports of sexual misconduct; for managing compliance with local, state, and federal law and for providing training and education efforts to prevent and raise awareness of acts of harassment, discrimination, and sexual misconduct.

- Shelley Menear; Director of Equity and Compliance, TECH- 303, 301-387-3037
- Janis Bush; Director of Human Resources, GIEC- 118, 301-387-3049



### Title IX Investigators

The Title IX Investigator is responsible for the investigation and information gathering in relation to all reports of sexual misconduct that warrant an investigation.

- Greg Shaffer, Coordinator of Safety and Security, MNTC 769, 301-387-3791
- Rich Schofield, Director of Student Development, LRNC- 635; 301-387-3119
- Eric Hallenbeck, Assistant Coordinator of Athletics, CARC Gym 953, 301-387-3331

### Garrett College Security Department

The Security Department may assist in on-campus investigations and provide information on obtaining no-contact orders. The Security Department can also assist in contacting local law enforcement should the complainant request to begin a criminal investigation. Security will also provide the complainant with information on how to contact law enforcement should they decide to file a report at a later date.

- Campus Safety and Security, MNTC 769, 24 hour Phone: 240-321-5799

### Considerations When Reporting

The College encourages individuals and third party witnesses to report incidents of sexual misconduct as soon as possible. While there is no time frame for reporting, the sooner assistance is sought, increases the College's ability to respond to the individual's needs promptly and effectively.

Individuals who report to the college do not need to be a member of the Garrett College community; however, it may limit the College's ability to take action against the responding party. The College will, to the best of its ability, assist in identifying resources, contact external reporting options, and take steps to address, end and prevent the behavior.

Incidents that occur off-campus may be reported to the College as the conduct may negatively impact the reporting party's on-campus life or pose a threat or danger to the campus community. The College will address the reported conduct under this policy.

### Amnesty for Alcohol or Other Drug Use

In an effort to ensure encouraged reporting to the College of incidents of sexual misconduct, reporting parties and/or witnesses who report will not be subject to disciplinary action by the College for one's own personal consumption of alcohol or drugs at or near the time of the incident, provided that the behavior did not and/or does not place the health or safety of any other person at risk. Educational discussions or programs may be issued by the College to address the substance abuse.

### Law Enforcement Coordination

A reporting party has the option to report or decline to report to law enforcement. The College encourages reporting parties to pursue criminal action for sexual misconduct incidents that may also qualify as crimes under Maryland state law and will assist a reporting party in filing a report should they decide to file criminal charges.

The College's actions under the Student Code of Conduct, policies, and standard of proof may differ from that of Maryland criminal law. A reporting party has the right to pursue actions

through the College and/or law enforcement. The College will not base whether a violation of policy occurred on the decisions made by law enforcement or the courts. The College process may take place before, simultaneous with, or following any criminal or civil proceedings.

Law enforcement may request that the College delay its preliminary inquiry or investigation while they complete their initial criminal investigation. Communication by the College to the reporting party in regards to the individual's rights, procedural steps, interim measures to ensure safety of the individual will be shared and the College will resume its investigation once instructed by law enforcement or after a reasonable delay.

### Retaliation

Any form of retaliation against an individual for filing a concern/report/allegation of sexual misconduct violates College policy and Title IX. An institution or an officer, employee, or agent of an institution, may not retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities. Any reports of retaliation will be handled immediately by the College and addressed through the judicial process.

## Available Resources

All students and employees of the College are encouraged and supported in the reporting of all violations of College policy and local, state, and federal laws, especially when it involves allegations of sexual misconduct. The College understands the difficulty in making a decision to report an incident of sexual misconduct, either to the College or law enforcement. Even if an individual chooses not to report, the College is committed to providing any individual who experiences or is affected by an act of sexual misconduct, including reporting parties, responding parties, and third party witnesses, with resources, both on campus and off, to both inform and support the individual. The College encourages all individuals to take advantage of the available resources and will aid the individual in accessing those resources that are a best fit for them.

### Confidential Counseling and Advocacy Resources

The College encourages all campus community members to report any incidents of sexual misconduct to the College and law enforcement immediately, however, for those who are unsure about what has taken place, if they wish to file a report, or are in need of information, confidential resources are available. Confidential resources are legally protected and will not share information disclosed to them to the College or others without the permission of the individual.

#### On Campus Confidential Resources (Counseling and Advocacy)

##### *The Dove Center*

The Dove Center provides safety, advocacy, and counseling to individuals whose lives have been shattered by domestic violence and/or sexual assault, and strives to expand public awareness of those issues. The College and the Dove Center have developed an MOU in which representatives are on-campus on Thursdays during the semester to provide general information and private counseling services. Alternative meeting times on campus can be arranged by contacting the number below. The Dove Center does not provide the College with personally identifiable information but will inform the Title IX Coordinator of reported statistics.

- <http://gcdovecenter.org/>
  - 24-Hour Hotline 301-334-9000
  - Toll-Free 1-800-656-HOPE (4673)

##### *On-Campus Counselor*

The College employs a licensed mental health counselor who is on campus once a week. Currently these services are for students only. Appointments are scheduled by emailing the email address listed below. Office hours are currently Thursdays from 8:30 am-1:30 pm in room 622 in the Shaw Learning Center.

- [karl.glocker@garrettcollege.edu](mailto:karl.glocker@garrettcollege.edu)

## Off Campus Confidential Resources (Counseling and Advocacy)

### *Maryland Coalition Against Sexual Assault (MCASA)*

MCASA provides resources for survivors of sexual assault. MCASA can also provide legal resources through the Sexual Assault Legal Institute or SALI.

- <http://www.mcasa.org/> OR 410-974-4507

### *Rape, Abuse, Incest National Network (RAINN)*

When a caller dials 1.800.656.HOPE, a computer notes the area code and first three digits of the caller's phone number. The call is then instantaneously connected to the nearest RAINN member center. If all counselors at that center are busy, the call is sent to the next closest center. The caller's phone number is not retained, so the call is anonymous and confidential unless the caller chooses to share personally-identifying information.

- <https://www.rainn.org/> OR 1-800-656-4673

## Confidential Medical Resources

Garrett College encourages any individual who is a victim of sexual misconduct, particularly sexual assault, to seek assistance from a medical provider as soon as possible, if not immediately, after an incident occurs. Doing so ensures the preservation of evidence should a victim choose to file a report and allows the victim to receive care for injuries or negative effects related to the incident (prevention of STDs, pregnancy). An advocate from the Dove Center will accompany the individual to the hospital and will not notify the College unless the reporting party chooses to. **Transport to a medical resource will be through Student Life, Campus Security, local law enforcement or local emergency services, dependent upon the Reporting Party's request and/or the severity of injuries.**

If a Sexual Assault Forensic Exam (SAFE) is desired, it is best that the Reporting Party follows the steps below to ensure preservation of evidence.

- DO NOT:
  - Bathe or shower
  - Use the restroom
  - Change clothes
  - Comb hair
- If clothing has been removed, place items in a paper bag and bring to the hospital.

SAFE exams are held anonymously at the hospital for a minimum of 90 days. All costs associated with the SAFE exam are waived in compliance with the Jane Doe Reporting laws for the State of Maryland.

### Off Campus Confidential Medical Resources

- Garrett Regional Medical Center: 301-533-4000
- Garrett County Health Department: 301-334-7777
- Western Maryland Health Systems: 240-964-1300

## Confidentiality

The College shall protect the privacy of individuals involved in a report of discrimination or sexual misconduct to the extent allowed by state and federal law and college policy. A report of harassment, discrimination or sexual misconduct may result in the gathering of extremely sensitive information about individuals in the college community. When a report involves suspected abuse of a minor under the age of 18, these confidential resources are **required** by Maryland law to notify child protective services and/or local law enforcement<sup>1</sup>. Throughout the process, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the report.

### Options for Reporting

The College encourages victims of sexual misconduct to talk to someone about what happened- so victims can get the support they need, and so the College can respond appropriately.

Different employees on campus have different abilities to maintain confidentiality.

- Some are required to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication” (examples: professional and pastoral counselors).
- Other employees may talk to a victim in confidence, and generally only report to the College that an incident occurred without revealing any personally identifying information. Disclosures to these employees will not trigger an investigation into an incident against the victim’s wishes. (Examples: non-professional counselors and advocates).
- Thirdly, some employees are required to report all the details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX Coordinator. A report to these employees (called “responsible employees”- a College employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty) constitutes a report to the College- and generally obligates the College to investigate the incident and take appropriate steps to address the situation.

### Request for Confidentiality

The Title IX Coordinator attempts to balance the needs of the parties for privacy with the institutional responsibility of ensuring a safe educational environment and workplace. Confidentiality is an aspiration, but is not always possible or appropriate. An individual’s requests regarding the confidentiality of reports of harassment, discrimination or sexual misconduct will be considered in determining an appropriate response, however, such requests will be considered in the dual contexts of the College’s legal obligation to ensure a working and learning environment free from harassment, discrimination or sexual misconduct and the due process rights of the accused to be informed of the allegations and their source. In making this determination, the College may consider:

- The seriousness of the conduct;
- The respective ages and roles of the reporting party and responding party;
- Prior complaints or reports of harassment or misconduct against the

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<sup>1</sup> The definition provided here is model policy language from ATIXA and used by the College (If interested in criminal law, find Maryland’s definition here).

responding party;

- The rights of the responding party to receive notification before disciplinary action is sought.

The College will take all reasonable steps to investigate and respond to the allegation consistent with the request for confidentiality or request not to pursue an investigation. Where the College is unable to take action consistent with the request, the Title IX Coordinator or a member from the Title IX team will inform the reporting party about the College's chosen course of action.

#### Timely Warnings and Emergency Notifications

A timely warning is issued in response to specified crimes that occur on or around campus, whereas an emergency notification is required for any immediate threat to the health and safety of the college community. If the College determines that a report of misconduct represents a serious or continuing threat to the college community, the College may issue a campus wide alert to protect the health and safety of the community. This alert will not disclose any personally identifiable information about the complainant. The release of names and other information is done in compliance with the [Family Educational Rights and Privacy Act \(FERPA\)](#) and the Clery Act. Full details on Timely Warnings and Emergency Notifications can be found on the College's [Emergency Information](#) page.

## Rights of the Reporting Party

A Reporting Party has the right:

- To a fair, impartial investigation and appropriate resolution of all credible allegations of sexual misconduct or discrimination made in good faith to College officials;
  - To be informed in advance of any public release of information regarding the incident;
  - Not to have any personally identifiable information released to the public, without their consent;
  - To be treated with dignity, respect, and sensitivity by College officials during all phases of the process;
  - To have College policies and procedures followed without material deviation;
  - Not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence;
  - Not to be discouraged by College officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
  - To be informed by College officials of options to notify law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the reporting party so chooses. This also includes the right not to be pressured to report, as well;
  - To have reports of sexual misconduct responded to promptly and with sensitivity by campus law enforcement and other campus officials;
  - To be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community;
  - To a campus no contact order (or a trespass order against a non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the reporting party or others;
  - To notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual misconduct incident, if so requested by the reporting party and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available).
- Accommodations may include:

- Relocation of on-campus housing and assistance from staff in completing the relocation;
- Transportation accommodations;
- Arranging to dissolve a housing contract and pro-rating a refund;
- Exam (paper, assignment) rescheduling;
- Taking an incomplete in a class;
- Transferring class sections;
- Temporary withdrawal;
- Alternative course completion options.

- To have the College maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures;
- To be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;
- To disciplinary proceedings and resolutions that are prompt and equitable and provide the opportunity to be heard/provide testimony;
- To ask the investigators to identify and question relevant witnesses, including expert witnesses;
- To review all documentary evidence available regarding the report obtained by the College, subject to privacy limitations imposed by state and federal law, prior to a hearing with or a finding by the Resolution Administrator;
- To be informed of the names of all witnesses whose information will be used to render a finding, in advance of that finding, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
- To timely written notification of date, time, and location of each hearing, meeting, or interview the party is required or permitted to attend;
- Not to have irrelevant prior sexual history admitted as evidence;
- To regular updates on the status of the investigation and/or resolution;
- To have reports addressed by investigators and Resolution Administrators who have received annual sexual misconduct training;
- To preservation of privacy, to the extent possible and permitted by law;
- To meetings and/or interviews that are closed to the public;
- To petition that any College representative in the process be recused on the basis of demonstrated bias or conflict-of-interest;
- To assistance from a licensed attorney, an advocate supervised by an attorney, or a trained advocate of the reporting party's choosing to attend all phases of the investigation and resolution proceeding;
- To bring no more than two people, including an attorney, advocate, or advisor of the reporting party's choosing to attend all phases of the investigation and resolution proceeding;
- To submit an impact statement in writing to the Resolution Administrator following determination of responsibility, but prior to sanctioning;
- To be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- To timely written notification when a decision by the College is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the College.



## Rights of the Responding Party

A Responding Party has the right:

- To a fair, impartial investigation and appropriate resolution of all credible reports of sexual misconduct and/or discrimination made in good faith to College administrators;
- To be informed in advance, when possible, of any public release of information regarding the report;
- To be treated with dignity, respect, and sensitivity by College officials during all phases of the process;
- To have College policies and procedures followed without material deviation;
- To be informed of and have access to campus resources for medical, health, counseling, and advisory services;
- To timely written notice of all alleged violations, including the date, time, location, and nature of the violation, the applicable policies and procedures and a range of possible sanctions;
- To disciplinary proceedings and resolutions that are prompt and equitable and provide an opportunity to be heard/provide testimony;
- To review all documentary evidence available regarding the report obtained by the College, subject to the privacy limitations imposed by state and federal law, prior to a hearing with or a finding by the Resolution Administrator;
- To be informed of the names of all witnesses whose information will be used to render a finding, prior to final determination, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
- To timely written notification of date, time, and location of each hearing, meeting, or interview the party is required or permitted to attend;
- Not to have irrelevant prior sexual history admitted as evidence in a campus resolution process;
- To have reports addressed by investigators and Resolution Administrators who have received [at least 8 hours of] annual training;
- To petition that any College representative be recused from the resolution process on the basis of demonstrated bias and/or conflict-of-interest;
- To meetings and interviews that are closed to the public;
- To assistance from a licensed attorney, an advocate supervised by an attorney, or a trained advocate of the reporting party's choosing to attend all phases of the investigation and resolution proceeding;
- To bring no more than two people, including an attorney, advocate, or advisor of the reporting party's choosing to attend all phases of the investigation and resolution proceeding;

- To a fundamentally fair resolution, as defined in these procedures;
- To provide an impact statement in writing to the Resolution Administrator following any determination of responsibility, but prior to sanctioning;
- To a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- To be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- To timely written notification when a decision of the College is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the College.

## Interim Measures, Remedies, and Accommodations

The Director of Equity and Compliance, or designee, may provide interim remedies intended to address the short-term effects of harassment, discrimination and/or retaliation, i.e., to redress harm to the reporting party and the community and to prevent further violations.

These remedies may include, but are not limited to:

- Referral to counseling and health services;
- Referral to the Employee Assistance Program (for employees);
- Education to the community;
- Altering the housing situation of the responding party (resident student or resident employee (or the reporting party, if desired));
- Altering work arrangements for employees (including student workers);
- Providing campus escorts;
- Providing transportation accommodations;
- Implementing contact limitations between the parties;
- Offering adjustments to academic deadlines, course schedules, etc.

### Summary Suspensions

The College may summary suspend a student, employee or organization pending the completion of an investigation and procedures, particularly when in the judgment of the Director of Equity and Compliance the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which a summary suspension is imposed, the student, employee or student organization will be given the option to meet with the Director of Equity and Compliance, or designee, prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Director of Equity and Compliance, or designee, has sole discretion to implement or stay a summary suspension and to determine its conditions and duration. Violation of a summary suspension under this policy will be grounds for expulsion or termination.

During a summary suspension or administrative leave, a student or employee may be denied access to College housing and/or the College campus/facilities/events. As determined by the Director of Equity and Compliance, this restriction can include classes and/or all other College activities or privileges for which the student or employee might otherwise be eligible. At the discretion of the Director of Equity and Compliance, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.

The College will maintain as confidential any interim actions or protective measures, provided confidentiality does not impair the College's ability to provide the interim actions or protective measures.

# Equity Grievance Process for Allegations of Harassment, Sexual Misconduct and Other Forms of Discrimination

## Overview

The procedures described below apply to all allegations of harassment or discrimination on the basis of protected class involving students, staff or faculty members. These procedures may also be used to address collateral misconduct occurring in conjunction with harassing or discriminatory conduct (e.g.: vandalism, physical abuse of another, etc.). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the [Student Code of Conduct](#) for students, and the Human Resources Manual for faculty and staff.

Upon notice to the Director of Equity and Compliance, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe College policy has been violated. If so, the College will initiate a confidential investigation that is thorough, reliable, impartial, prompt and fair. The investigation and the subsequent resolution process determines whether College policy has been violated. If so, the College will promptly implement effective remedies designed to end the behavior/violation, prevent its recurrence and address its effects.

## Disabilities Accommodations in the Equity Grievance Process

Garrett College is committed to providing qualified students, employees or others with disabilities with reasonable accommodations and support needed to ensure equal access to the Equity Grievance Process at the College. Anyone needing such accommodations or support should contact Disability Support Services or the Director of Human Resources, who will review the request and, in consultation with the person requesting the accommodation, and the Director of Equity and Compliance, determine which accommodations are appropriate and necessary for full participation.

## Standard of Evidence

Garrett College will use the standard of “preponderance of the evidence” in determining responsibility in cases of sexual misconduct and other college policy violations. Preponderance of the evidence means that a party, in this case the reporting party, has shown that its version of facts, causes, damages, or fault is more likely than not the correct version.

## Preliminary Inquiry

Following receipt of notice or a report of misconduct, the Director of Equity and Compliance, or designee, engages in a preliminary inquiry to determine if there is reasonable cause to believe College policy has been violated. The preliminary inquiry is typically 1-3 days in duration. This inquiry may also serve to help the Director of Equity and Compliance, or designee, to determine if the allegations evidence violence, threat, pattern, predation and/or weapon, in the event that the reporting party has asked for no action to be taken. In any case where violence, threat, pattern, predation, and/or weapon is not evidenced, the Director of Equity and Compliance, or designee, may respect a reporting party’s request for no action, and will investigate only so far as necessary to determine appropriate remedies. **As necessary, the College reserves the right to initiate resolution proceedings without a formal report or participation by the reporting**

**party.**

In cases where the reporting party wishes to proceed or the College determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the Director of Equity and Compliance, or designee, will direct a formal investigation to commence and the allegation will be resolved through one of two processes discussed briefly here and in greater detail below:

- Conflict Resolution – typically used for less serious offenses and only when both parties agree to conflict resolution;
- Administrative Resolution – resolution by a trained administrator.

The process followed considers the preference of the parties, but is ultimately determined at the discretion of the Director of Equity and Compliance. Conflict Resolution may only occur if selected by all parties, otherwise the Administrative Resolution process applies.

If conflict resolution is desired by the reporting party, and appears appropriate given the nature of the alleged behavior, then the report does not proceed to investigation, unless a pattern of misconduct is suspected or there is an actual or perceived threat of further harm to the community or any of its members.

Once a formal investigation is commenced, the Director of Equity and Compliance, or designee, will provide written notification of the investigation to the parties at an appropriate time during the investigation.<sup>2</sup> The College aims to complete all investigations within a sixty (60) calendar day time period, which can be extended as necessary for appropriate cause by the Director of Equity and Compliance, or designee, with notice to the parties as appropriate.

**If, during the preliminary inquiry or at any point during the formal investigation, the Director of Equity and Compliance determines that there is no reasonable cause to believe that policy has been violated, the process will end unless the reporting party requests that the Director of Equity and Compliance makes an extraordinary determination to re-open the investigation or to forward the matter for a hearing. This decision lies in the sole discretion of the Director of Equity and Compliance, or designee. If during the preliminary inquiry or at any point during the formal investigation, the responding party admits responsibility to the allegations, the investigation will end and the Director of Equity and Compliance, or designee, will assign sanctions consistent with the nature of the allegation.**

## Investigation

Once the decision is made to commence a formal investigation, the Director of Equity and Compliance, or designee, appoints EGP pool members to conduct the investigation (typically using a team of two EGP investigators), usually within two (2) days of determining that an investigation should proceed. Investigations are completed expeditiously, normally within ten (10) days, though some investigations take weeks or even months, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc.

The College may undertake a short delay of its investigation (several days to weeks, to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this

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<sup>2</sup> Notification will be made in writing and may delivered by email to the parties' College-issued email account or personal account on record. Once emailed, notice will be presumptively delivered. The reporting party is typically copied on such correspondence.

process are being investigated. The College will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. College action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

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

The investigators will typically take the following steps, if not already completed (not necessarily in order):

- In coordination with campus partners (e.g.: the Director of Equity and Compliance), initiate or assist with any necessary remedial actions;
- Determine the identity and contact information of the reporting party;
- Identify all policies allegedly violated;
- Assist the Director of Equity and Compliance with an immediate preliminary inquiry to determine if there is reasonable cause to believe the responding party has violated policy;
  - If there is insufficient evidence to support reasonable cause, the inquiry should be closed with no further action;
  - If the responding party claims responsibility, the Director of Equity and Compliance will end the investigation and determine sanctions.
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- Prepare the notice of allegation [charges] on the basis of the preliminary inquiry;
- Meet with the reporting party to finalize their statement, if necessary;
- Provide written notification to the parties prior to their interviews that they may have the assistance of two advisors/advocates of their choosing present for all meetings attended by the party (*see section on Advisors and Access to Legal Counsel*);
- Provide the parties with a written 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;
- Prior to the conclusion of the investigation, provide the reporting party and the responding party with a list of witnesses whose information will be used to render a finding;
- Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses;
- Provide the parties with all relevant evidence to be used in rendering a determination and provide each with a full and fair opportunity to address that evidence prior to a

finding being rendered;

- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate;
- Make a finding, based on a preponderance of the evidence (whether a policy violation more likely than not occurred);
- Investigators and/or the Director of Equity and Compliance finalize and present the findings to the responding party, who may accept the findings, accept the findings in part and reject them in part, or may reject all findings;
- Share the findings and update the reporting party on the status of the investigation and responding party's decision on the finding, without undue delay.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the College's investigation and the Equity Grievance Process. Any witness who declines to participate in or cooperate with an investigation will not be permitted to offer evidence or testimony later in a hearing (if a hearing is held). Failure of a witness to cooperate with and/or participate in the investigation or Equity Grievance Process constitutes a violation of policy and may be subject to discipline. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing.

Parties who elect not to participate in the investigation or to withhold information from the investigation will not have the opportunity to offer evidence during the hearing and/or appeal stages of the process if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or other Equity Grievance Process proceedings. Investigators will record and transcribe all interviews; these records will be maintained in the official file and made available for review by the parties.

## Advisors

Each party is allowed to have no more than two people (further identified as "advisors"), including a personal supporter of the party's choice, an attorney, or an advocate present with them for all EGP meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as advisors as long as the individual is eligible and available, and usually not otherwise involved in the grievance process, such as serving as a witness; witnesses cannot also serve as advisors.

The parties may be accompanied by their selected advisors in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The 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, the College is not obligated to provide one. Students involved in Title IX disciplinary



proceedings have access to and funding for an attorney in accordance with Maryland law (*see Access to Counsel on page 24*).

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigators or Resolution Administrator. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows the College an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Director of Equity and Compliance will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

The College expects that the parties will wish to share documentation related to the allegations with their advisors. The College provides a consent form that authorizes such sharing. The parties must complete this form before the College is able to share records with an advisor, though parties may share the information directly with their advisor if they wish. 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 the College. The College 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 the College's privacy expectations.

The College expects an advisor to adjust their schedule to allow them to attend College meetings when scheduled. The College does not typically change scheduled meetings to accommodate an advisor's inability to attend. The College will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process, and is not locked into using the same advisor throughout. The parties must advise the Director of Equity and Compliance of the identity of their advisor at least one (1) day 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 must provide timely notice to investigators if they change advisors at any time.

### [Access to Counsel](#)

Both the reporting party and the responding party may access counsel paid for by the Maryland Higher Education Commission (the "Commission") before the conclusion of the formal Title IX proceedings if they meet the following criteria:

1. The reporting party is a current or former student who files a grievance 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 grievance, unless the student knowingly and voluntarily chooses not to have counsel; and

2. The responding party is a current or former student who responds to a grievance 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 grievance, unless the student knowingly and voluntarily chooses not to have counsel.

The Commission will develop a list of attorneys and legal services programs willing to represent students on a pro bono basis or at fees equivalent to those paid to attorneys under civil legal services programs administered by the Maryland Legal Services. This list will be developed in consultation with state and local bar associations and legal services providers with expertise about sexual misconduct.

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 Commission shall pay fees to the attorney selected by the student that are equivalent to those paid to attorneys under civil legal services programs administered by the Maryland Legal Services Corporation.

**The Commission is not required to pay a student's attorney's fees for representation in a criminal or civil matter.**

Non-student reporting or responding parties who do not qualify for legal counsel through the Commission may choose to contact the following:

Responding parties may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Reporting parties may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>), or the
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.

## Conflict Resolution and Administrative Resolution

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with College policy. While the contents of the resolution process are private, the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advisors.

### Conflict Resolution

Conflict Resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal hearing process to resolve conflicts. The Director of Equity and Compliance, or designee, will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue and the susceptibility of the conduct to conflict resolution. In a conflict resolution meeting, a trained administrator will facilitate a

dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies. Records of any resolution that is reached will be maintained as part of the official file, and failure to abide by the accord can result in appropriate responsive actions.

Conflict Resolution will not be the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the formal process is completed should the parties and the Director of Equity and Compliance, or designee, believe that it could be beneficial. **Mediation will not be used in cases of sexual violence.** It is not necessary to pursue Conflict Resolution first in order to pursue Administrative Resolution, and either party participating in Conflict Resolution can stop that process at any time and request a shift to an Administrative Resolution.

### Administrative Resolution

Administrative Resolution can be pursued for any behavior that falls within the Equity Grievance policy, at any time during the process.

In Administrative Resolution, the Resolution Administrator has the authority to address all collateral misconduct, meaning that they hear all allegations of discrimination, harassment, sexual misconduct and retaliation, but also may address any additional alleged College policy violations that have occurred in concert with the alleged violations of the Equity Grievance Policy. Accordingly, investigations should be conducted with as wide a scope as necessary.

Administrative Resolution relies on the evidence, information and recommended findings within the investigation report to render a determination. Upon completion of the investigation, the Resolution Administrator will be provided with a written investigative report summarizing the evidence gathered and examined, including an assessment of credibility of the parties and witnesses, an analysis of the information and a recommended finding and sanction (if applicable). The Resolution Administrator will conduct any additional necessary inquiry and then finalize a determination in accordance with the procedures below. The Resolution Administrator will consider, but is not bound by, the recommendations of the investigation.

Any evidence that the Resolution Administrator believes is relevant and credible may be considered, including history and pattern evidence. The Resolution Administrator may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

Unless the Resolution Administrator determines it is appropriate, the investigation and the finding will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), (3) or the character of the reporting party. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigator(s) will supply the Resolution Administrator with information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

Neither the Resolution Administrator nor investigator(s) will meet with character witnesses, but investigators will accept up to two (2) letters supporting the character of each of the parties.

The Resolution Administrator will base the determination(s) on the preponderance of the evidence, whether it is more likely than not that the responding party violated policy as alleged.

The responding party may choose to admit responsibility for all or part of the alleged policy violations at any point during the investigation or Administrative Resolution process. If the responding party admits responsibility, the Director of Equity and Compliance, or designee, will render a determination that the individual is in violation of College policy, and assign sanctions.

If the responding party admits responsibility for the violation(s), or is found in violation, the Resolution Administrator, in consultation with the Director of Equity and Compliance, or designee, and others as appropriate, will determine an appropriate sanction or responsive action, will implement it, and act promptly and effectively to stop the prohibited conduct, prevent its recurrence and remedy the effects of the conduct.

The Resolution Administrator will inform the parties of the final determination within three (3) business days of the resolution, without significant time delay between notifications. Notification will be made in writing, delivered by email to the parties' College-issued email account or, for unaffiliated individuals, the personal email account on record. Once emailed, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which the College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law. The notice will also include information on when the results are considered by the College to be final, any changes that occur prior to finalization, and any appeals options that are available.

#### Withdrawal or Resignation While Charges are Pending

Students: Should a student decide to leave and/or not participate if that student has an allegation pending for violation of the Equity Grievance policy, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to the College unless all sanctions have been satisfied. The student will receive a hold on their account until the allegations have been resolved.

Employees: Should an employee resign with unresolved allegations pending, the records of the Director of Equity and Compliance and the Human Resources Office will reflect that status, and any College responses to future inquiries regarding employment references for that individual will indicate the former employee is ineligible for rehire.

#### Records

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Director of Equity and Compliance indefinitely in the Equity and Compliance Office database. All records created and maintained pursuant to the Equity Grievance Policy must be retained *indefinitely* by the Equity and Compliance Office unless destruction or expungement is authorized by the Director of Equity and Compliance, who may act under their own discretion, or in accordance with a duly executed and binding settlement of claim, and/or by court order.

## Sanctions and Resolutions

Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation;
- An individual's disciplinary history as it relates to the grievance/allegation;
- Previous allegations or allegations involving similar conduct;
- Any other information deemed relevant by the hearing body;
- The need for sanctions/responsive actions to bring an end to the prohibited conduct;
- The need for sanctions/responsive actions to prevent the future recurrence of the prohibited conduct;
- The need to remedy the effects of the prohibited conduct on the reporting party and the community.

### Student Sanctions

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- **Warning:** A formal statement that the behavior was unacceptable and a warning that further infractions of any College policy, procedure or directive will result in more severe sanctions/responsive actions.
- **Probation:** A written reprimand for violation of College policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any College policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, no-contact orders and/or other measures deemed appropriate.
- **Suspension:** Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at Garrett College. This sanction will be noted as a Conduct Suspension in the student's official file.
- **Expulsion:** Permanent termination of student status, revocation of rights to be on campus for any reason or attend College-sponsored events. This sanction will be noted as a Conduct Expulsion in the student's official file.
- **Withholding Diploma:** The College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending, or as a sanction if the student is found responsible for an alleged violation.
- **Revocation of Degree:** The College reserves the right to revoke a degree awarded from the College for fraud, misrepresentation or other violation of College policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.

- Organizational Sanctions: Deactivation, de-recognition, loss of all privileges (including College registration), for a specified period of time.
- Other Actions: In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

### Employee Sanctions

Responsive actions for an employee who has engaged in harassment, discrimination, sexual misconduct and/or retaliation include:

- Warning – Verbal or Written;
- Performance Improvement/Management Process;
- Required Counseling;
- Required Training or Education;
- Probation;
- Loss of Annual Pay Increase;
- Loss of Oversight or Supervisory Responsibility;
- Demotion;
- Suspension with pay;
- Suspension without pay;
- Termination;
- Other Actions: In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

### Long-Term Remedies/Actions

Following the conclusion of the Equity Grievance Process and in addition to any sanctions implemented, the Director of Equity and Compliance, or designee may utilize long-term remedies or actions to stop the prohibited conduct, remedy its effects and prevent their reoccurrence. These remedies/actions may include, but are not limited to:

- Referral to counseling and health services;
- Referral to the Employee Assistance Program (for employees);
- Education to the community;
- Permanently altering the housing situation of the responding party (resident student or resident employee (or the reporting party, if desired));
- Permanently altering work arrangements for employees (including student workers);
- Providing campus escorts;
- Climate surveys;
- Policy modification;

- Providing transportation accommodations;
- Implementing long-term contact limitations between the parties;
- Offering adjustments to academic deadlines, course schedules, etc.

At the discretion of the Director of Equity and Compliance, or designee, long-term remedies may also be provided even when the responding party is found not responsible.

The College will maintain as confidential any long-term remedies/actions or protective measures, provided confidentiality does not impair the institution's ability to provide the actions or protective measures.

#### Failure to Complete Sanctions/Comply with Interim and Long-Term Remedies/Responsive Actions

All responding parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified by the Director of Equity and Compliance. Failure to abide by these conduct sanctions, responsive actions and corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from the 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 Director of Equity and Compliance.

## Appeals

All requests for appeal consideration must be submitted in writing to the Director of Equity and Compliance, or designee, within three (3) business days of the delivery of the written finding and/or sanctions of the hearing body.

A three-member appeals panel chosen from the EGP pool will be designated by the Director of Equity and Compliance, or designee, from those who have not been involved in the process previously. Any party may appeal, but appeals are limited to the following grounds:

- To determine whether the Conflict or Administrative Resolution was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures giving the reporting party a reasonable opportunity to prepare and present information that College policy was violated, and giving the responding party a reasonable opportunity to prepare and to present a response to those allegations. Deviations from designated procedures will not be a basis for sustaining appeal unless significant prejudice results.
- To determine whether sanction(s) imposed were appropriate for the violation of the College policy, which the responding party was found to have committed.
- To consider new information, sufficient to alter a decision or other relevant facts not brought out in the original resolution process, because such information and/or facts were not known to the person appealing at the time of the original Conflict or Administrative Resolution.
- To determine whether the decision reached regarding the responding party was based on substantial information, that is, whether there were facts in the case that, if believed by the fact finder, were sufficient to establish that a violation of College Policy occurred.

The appeals panel will review the appeal request(s). The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. The party requesting the appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met. The original finding and sanction are presumed to have been decided reasonably and appropriately. When any party requests an appeal, the Director of Equity and Compliance, or designee, will share the appeal request with the other party(ies), who may file a response within three (3) business days and/or bring their own appeal on separate grounds. If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within three (3) business days. These responses or appeal requests will be shared with each party.

Where the appeals panel finds, **by majority vote**, that at least one of the grounds is met by at least one party, additional principles governing the hearing of appeals will include the following:

- Decisions by the appeals panel are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- Appeals are not intended to be full re-hearings (de novo) of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the investigation, and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for appeals panelists to substitute their judgment for that of the

original investigator(s) or Resolution Administrator merely because they disagree with its finding and/or sanctions.

- Appeals granted based on new evidence should normally be remanded to the investigator(s) for reconsideration. Other appeals may be remanded at the discretion of the Director of Equity and Compliance, or designee, to be heard by the three-member appeals panel.
- Sanctions imposed as the result of Administrative Resolution are implemented immediately unless the Director of Equity and Compliance, or designee, stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
- For students: Graduation, study abroad, internships/ externships, etc. do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- The Director of Equity and Compliance, or designee, will confer with the appeals panel, incorporate the results of any remanded grounds, and render a written decision on the appeal to all parties within three (3) business days of the resolution of the appeal or remand.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand.
- All parties will be informed in writing within three (3) business days of the outcome of the Appeals Panel, without significant time delay between notifications, and in accordance with the standards for notice of outcome as defined above.
- In rare cases where a procedural [or substantive] error cannot be cured by the original investigator(s) and/or Resolution Administrator (as in cases of bias), the appeals panel may recommend a new investigation and/or Administrative Resolution process, including a new Resolution Administrator. The results of a remand cannot be appealed. The results of a new Administrative Resolution process can be appealed, once, on any of the four applicable grounds for appeals.
- In cases where the appeal results in reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the responding party to their prior status, recognizing that some opportunities lost may be irreparable in the short term.



## Awareness Education and Programming

Garrett College consistently strives to be pro-active, preventing acts of sexual misconduct from occurring by educating the campus community and promoting awareness. Many campus departments in cooperation with local offices, such as the Health Department and the Dove Center, work together to offer a variety of programming throughout the year outlining College policy and procedure, prohibited behavior/conduct, impact of alcohol and substance abuse, effective consent, bystander intervention and information about risk reduction.

As required through VAWA, programs to prevent dating violence, domestic violence, sexual assault, and stalking are defined as “comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end the above stated conduct that are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome”. These programs are also required to “consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels and include primary prevention and awareness programs directed at incoming students and new employees and ongoing prevention and awareness campaigns to the entire campus community.

Garrett College and the Dove Center have developed a Memorandum of Understanding to build a partnership between the crisis center and the college. This MOU establishes a 24 hours crisis-intervention response for victims of sexual misconduct, as well as prevention and training for the campus community. The Dove Center provides a school outreach specialist, who is on campus at least once a week to offer awareness and education, as well as private counseling services.

Garrett College utilizes the “Not Anymore” educational training program as its primary prevention tool. This program is required to be completed by all incoming students, faculty, and staff. The College then offers annual refreshers for those who have successfully completed the program. The College also utilizes the “Escalation” program from OneLove, the “Where Do You Stand?” program from Men Can Stop Rape and Bringing in the Bystander.

All campus activities and programs are communicated through campus email accounts, on the College website, through the Regroup communication app, or checking the various social media pages for the College.

## Commonly Used Terminology

**Accommodations-** a convenient arrangement; a settlement or compromise.

**Advisor-** any individual who provides the accuser or the accused support, guidance, or advice.

**Awareness Programs-** community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

**Bystander Intervention-** safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking; includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

**Clery Act-** a federal statute requiring colleges and universities participating in federal financial aid programs to maintain and disclose campus crime statistics and security information.

**Complainant-** the party who makes the formal grievance or allegation in a conduct violation or proceeding; also referred to as the “reporting party”.

**Confidentiality-** having another's trust or confidence; entrusted with secrets or private affair.

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

**Domestic Violence-** a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies under VAWA, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

**Discrimination-** the practice of unfairly treating a person or group of people differently from other people or groups of people.

**Effective Consent-** willingly, freely, and knowledgeably agreeing to engage in sexual conduct.

**FERPA-** a Federal law that protects the privacy of student education records.

**Formal Resolution-** administrative remedy that requires an investigation and written findings. The statements of the complainant, respondent and witnesses become part of a written record that is used for administrative review and action as necessary.

**Gender-based Harassment-** harassment of an individual based solely upon gender.

**Harassment-** to create an unpleasant or hostile situation by uninvited and unwelcome verbal or physical conduct.

**Hate Crime-** any of various crimes (as assault or defacement of property) when motivated by hostility to the victim as a member of a group (as one based on color, creed, gender, or sexual orientation).

**Informal Resolution-** method of resolving complaints for conduct violations without the need to follow formal proceedings.

**Interim Measures-** A measure that is taken on an interim or temporary basis, in order to protect the interests and safety of the complainant.

**Intimate Partner Violence-** any act or threatened act of violence against a person who is, or has been involved in, a sexual, dating, domestic, or other intimate relationship with the victim (complainant/respondent). Behaviors may include, but are not limited to, physical, sexual, and emotional violence that may occur once or be ongoing.

**Non-consensual Sexual Contact-** any intentional touching of the intimate parts of another person, causing another to touch one's intimate parts, or disrobing or exposure of another without effective consent. Intimate parts may include the genitalia, breast, buttocks, groin, or clothing covering those parts, or any other part of the body that is touched in a sexual manner. Sexual contact also includes attempted sexual intercourse.

**Non-consensual Sexual Intercourse-** any act of sexual intercourse with another individual without effective consent (see definitions of consent on page 6). Sexual intercourse includes vaginal or anal penetration, however slight, with a body part (penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact.

**On-going Prevention-** programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to, and skills for addressing, dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution.

**Physical Conduct-** unwelcomed touching, sexual/physical assault, impeding, restraining, or blocking movement; unwanted sexual advances within the employment context.

**Primary Prevention-** programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

**Privileged Communication-** a communication between parties to a confidential relation (as between physician and patient) such that the recipient cannot be legally compelled to disclose it as a witness.

**Proceeding-** all activities related to a non-criminal resolution of an institutional disciplinary

complaint.

**Prompt, fair, and impartial proceeding-** a proceeding that (1) completed within a reasonably prompt timeframe, (2) conducted in a manner consistent with the institution's policies, (3) conducted by officials who do not have a conflict of interest or bias for or against the Complainant or Respondent.

**Quid Pro Quo Conduct-** unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational development or performance.

**Remedies-** means to recover a right or to prevent or obtain redress for a wrong.

**Reporting Party-** the party who makes the formal grievance or allegation in a conduct violation or proceeding; also referred to as the "complainant".

**Respondent-** the party against whom an allegation or grievance is filed; also referred to as the "responding party".

**Responding Party-** the party against whom an allegation or grievance is filed; also referred to as the "respondent".

**Responsible Employees-** a College employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty.

**Result-** any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within an institution.

**Retaliation-** An institution or an officer, employee, or agent of an institution, may not retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under any provision of the Clery Act.

**Risk Reduction-** options designed to decrease perpetration and bystander inaction and to increase empowerment for victims to promote safety and to help individuals and communities address conditions that facilitate violence.

**Sexual Assault-** an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's UCR program.

**Sexual Exploitation-** any act which takes non-consensual or abusive sexual advantage of another individual, either for their own advantage or benefit, or for the advantage or benefit of anyone other than the one being exploited. This behavior can include, but is not limited to, unwanted exposure to pornography, voyeurism, and the use of electronics to capture image or video of a sexual act without consent or knowledge of involved parties.

**Sexual Harassment-** any unwelcome sexual advance, unwelcome request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature when (a) is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from an

education program or to create a hostile or abusive educational environment, or (b) explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

**Sexual Misconduct-** includes, but is not limited to, the following prohibited forms of discrimination and harassment: sexual harassment, gender-based harassment, sexual assault, non-consensual sexual contact, sexual exploitation, dating violence, domestic violence, and stalking.

**Stalking-** engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.

**Timely Warning-** communication issued in response to specified reportable crimes that occur on or around campus.

**Title IX-** a law passed in 1972 that requires gender equity for boys and girls in every educational program that receives federal funding.

**Verbal Conduct-** verbal abuse of a sexual nature, graphic verbal comments about an individual's body, sexually degrading words used to describe an individual; objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes or anecdotes.

**Visual Conduct-** severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading sexually oriented images that are not pedagogically appropriate.

**Written Conduct-** is letters, notes, or electronic communications containing comments, words, or images as described in visual conduct.