

## Procedure: 3.03A

### Title IX Sexual Harassment and Sexual Violence

---

#### Purpose

The College takes allegations of sexual harassment very seriously, and will actively respond to alleged sexual harassment and will take remedial action, where appropriate. The procedures below outline the process the College follows when it receives a report alleging a violation of the Title IX Sexual Harassment and Sexual Violence Policy committed by a member of the Kansas City Kansas Community College (“KCKCC”) community. The procedures described below are an internal process to determine whether the College’s Title IX Sexual Harassment and Sexual Violence policy was violated and is not a court system. As such, KCKCC’s process does not use the same rules of procedure and evidence as those used by courts or law enforcement.

#### Procedure Statement

A person who has experienced Title IX Sexual Harassment or any potential crime has the right to simultaneously file and pursue both a formal grievance with the College and a criminal complaint with law enforcement, and to be assisted by the College in notifying law enforcement, or to decline to notify such authorities, if they choose. College employees must comply with all notification requirements required by law and policy.

The College does not limit the time for submitting a complaint of sexual harassment, but strongly urges the immediate reporting of complaints or concerns. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of sexual harassment. The College’s ability to investigate and respond effectively may be reduced over time.

#### Title IX Sexual Harassment Reporting

All reports will be handled in a prompt, fair, and impartial manner in accordance with Title IX, the Violence Against Women Act, the Kansas Sexual Violence Act, and other relevant laws and regulations and College policies.

- **Reporting to Law Enforcement:** An individual who has experienced Sexual Assault, Dating Violence, Domestic Violence, or Stalking has the right to choose whether to file a police report. Reports can be made to the KCKCC Collegeo Police Department as well as local law enforcement. Timely reporting to the police is an important factor in the successful investigation and prosecution of crimes, including sexual violence.
- **Reporting to the College:** Reports of gender-based or sexual misconduct can be made directly to the Title IX Coordinator or Deputy Coordinator via email, phone, mail, or in person. (See Title IX Coordinator.) Reports can also be made to other designees identified in the Employee Responsibility section. Reporting to any of these employees will initiate the College’s response. To better facilitate reporting, the Title IX Reporting form can be found at [KCKCC Title IX webpage](#).
- **Reporting to a Confidential Resource:** Confidential reports of gender-based or sexual misconduct can be made to counselors in the Counseling and Advocacy Office and to medical professionals in the Health Services Office. They will maintain confidentiality and are not obligated to disclose reports of Title IX Sexual Harassment to the Title IX

Coordinator or Deputy Coordinator or College law enforcement unless reporting is mandated by law in the cases of imminent danger whereby a person is a threat to themselves or others, or when child or elder abuse is reported.

### Preservation of Evidence

Many Title IX Sexual Harassment offenses are also crimes in the state or locality in which the incident occurred. For that reason, individuals who believe they are victims of Sexual Assault, Dating Violence, Domestic Violence, or Stalking often have legal options that they can pursue. It is important to preserve evidence. A Complainant may not be ready to file a formal complaint but may choose to do so at a later date. That evidence is important for investigative purposes.

- **General physical evidence:** Individuals should consider not disposing, altering, or destroying any physical evidence of an incident and/or perpetrator. All documents, pictures, logs, screenshots of text messages, social media posts, instant messages, emails, or other electronic communication should be preserved.
- **Sexual assault physical evidence:** Preservation of some evidence, particularly evidence that may be located in the body, dissipates quickly (within 48-96 hours). In the case of sexual assault, the alleged victim should not bathe, shower, eat, drink, brush teeth or smoke. They should not change or wash clothing or bedding. Individuals who have been sexually assaulted should go to a hospital or medical facility immediately to seek a medical examination and/or evidence collection and seek the assistance of a Sexual Assault Nurse Examiner (SANE). (See resources.) Sexual Assault Nurse Examiners are trained to safely collect and preserve physical evidence.

### Employee Responsibility

All College employees are obligated to promptly report allegations of sexual and gender-related misconduct, including Title IX Sexual Harassment to the Title IX Coordinator or Deputy Coordinator unless they are a Confidential Resource. A response by the College is initiated when notice is given to an official with authority to institute corrective measures on behalf of the recipient:

- Title IX Coordinator and Deputy Coordinator(s)
- Athletic Director
- Chief and Deputy Chief of College Police
- Deans
- Vice President of Student Affairs
- Vice President of Academic Affairs
- Vice President of Strategic Initiatives and Outreach
- Chief Human Resource Officer
- Chief Financial Officer
- Chief Information Officer
- President

### Supportive Measures

Individualized services that are non-punitive, non-disciplinary, or unreasonably burdensome to the other party to restore or preserve equal access to education, protect student and employee safety, or deter sexual

harassment, will be offered to the Complainant (alleged victim), regardless of whether or not the Complainant files a formal grievance. In the event a formal grievance is filed, the Title IX Coordinator or Deputy Coordinator will notify the Respondent of the availability of Supportive Measures for the Respondent. Supportive Measures to the Respondent will be offered and made available in the same manner in which it offers and makes them available to the Complainant. Supportive measures may include but are not limited to:

- Academic course adjustments
- Counseling
- No-contact orders
- Housing room reassignments
- Leaves of absence
- Class schedule changes

Other services include accessibility and interpretation:

- Student Accessibility and Support Services (SASS) coordinates services for KCKCC students who have a documented disability in accordance with Section 504 of the Rehabilitation ACT and the Americans with Disabilities Act. Services are provided at no cost to enrolled students on an individual basis and with respect to confidentiality.
- Interpretation requests can be made to the Title IX Coordinators or Human Resources.

### **Title IX Sexual Harassment Formal Grievance Process**

A formal complaint, in writing, must be submitted by the Complainant or by the Title IX Coordinator in circumstances involving serious or repeated sexual harassment or sexual violence or where the respondent may pose a continuing threat to the College community. A formal complaint is required to initiate the grievance process, which is as follows:

- Upon receipt of a formal complaint, the Title IX Coordinator or designee will make contact with the Complainant to discuss the availability of supportive measures and to explain the grievance process.
- Both parties will receive written notification of the allegations. Written notices will include the identities of the parties, the alleged conduct constituting sexual harassment, and the date and location of misconduct, if known. (Additional notifications will be sent to both parties if more allegations arise during the investigation.)
- A Title IX investigator will be assigned to investigate the allegations in the formal complaint.
- The Respondent is presumed not responsible for the alleged conduct and a determination regarding responsibility will be made at the conclusion of the grievance process.
- Parties may have an advisor of their choice, or may have one provided by the College, throughout the grievance process, who may be, but is not required to be an attorney.
- Parties may choose an informal resolution process, such as mediation or restorative justice, except when the Respondent is an employee and the Complainant is a student. Both parties must give voluntary, written consent and may withdraw consent any time before the final outcome.

Otherwise:

- The assigned investigator will conduct an objective evaluation of all relevant evidence. This may include the following: the surrounding circumstances, the nature of the conduct, the

relationships between the parties involved, past incidents, and the context in which the alleged incidents occurred.

- Both parties will have equal and unrestricted opportunity to submit evidence throughout the investigation.
- The College will send written notice of any investigative interviews, meetings, or hearings involving the parties.
- The College will protect parties' privacy by requiring a party's written consent before using the party's medical, psychological or similar treatment records during a grievance process.
- The College will use trained Title IX personnel to objectively evaluate all relevant evidence without prejudgment of the facts at issue and free from conflicts of interest or bias for or against either party.
- Prior to the completion of the final investigation report, the parties will be allowed to review the evidence related to the allegations and will be given 10 working days to prepare a written response. The written responses from the parties will be considered prior to the completion of the investigation report.
- The investigation report will include a determination as to whether the investigator believes a policy violation has occurred, using the applicable standard of evidence.
- Upon completion of the investigation report, it will be submitted to the decision-maker. The parties will have an additional 10 working days to review the final investigation report and submit a written response to the decision-maker regarding the report.
- A live formal Hearing will be conducted by the Decision Maker (s), whereby both parties' advisors will be able to ask relevant questions of the other party and the witnesses. (Live hearings may take place in a virtual setting.)
- If a party does not have an advisor, the College will provide one. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker must first determine whether the question is relevant and explain to the party's advisor asking cross-examination questions any decision to exclude a question as not relevant.
- If a party or witness does not submit to cross-examination at the live Hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- The College will create an audio or audiovisual recording, or transcript, of any live Hearing and make it available to the parties for inspection and review.
- The Decision Makers will review the investigation report, any written responses submitted by the parties, and the evidence presented at the live hearing. The decision-maker will then issue a Notice of Hearing Outcome written determination as to whether the preponderance of the evidence shows a policy violation occurred.
- The Decision Maker's written determination (Notice of Hearing Outcome) will include: identification of the allegations that constitute sexual harassment; a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits,

methods used to gather other evidence, and hearings held; findings of fact supporting the determination; conclusions regarding the application of the College's code of conduct/policies to the facts; a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the Complainant; and the College's procedures and permissible bases for the Complainant and Respondent to appeal the Decision Maker's finding.

### Preponderance of Evidence

The evidentiary standard at KCKCC is the preponderance of evidence. Outcomes of hearings will be determined by the Decision Maker(s). The Decision Maker will provide both parties, simultaneously, the Notice of Hearing Outcome written determination as outlined above.

### Appeal

Following a Hearing, both the Complainant and Respondent have a right to seek a review of the Notice of Hearing Outcome to the Hearing Officer (Vice President of Student Affairs or the Chief Human Resource Officer) with regard to a finding of responsibility or non-responsibility and/or the imposed sanctions and remedies.

Mere dissatisfaction with the Notice of Hearing Outcome is not a valid basis for appeal. The Complainant's and Respondent's right to appeal the Notice of Hearing Outcome regarding a final determination of responsibility and/or the resulting sanction(s) are limited to:

- The existence of a procedural irregularity that materially affected the Hearing Panel's decision and/or recommended sanctions;
- The existence of new evidence that was not reasonably available at the time the determination regarding responsibility or sanctions was made that could affect the outcome;
- The Title IX Coordinator, Investigator, or Hearing Panel member(s) had a conflict of interest or bias that affected the outcome.

If either party chooses to appeal the Decision Maker's finding (Notice of Hearing Outcome), they must deliver a written appeal to the Appeal Officer (office of the Vice President of Student Affairs or Chief Human Resource Officer) within seven (7) working days of the date they were provided the Notice of Hearing Outcome letter. Failure to do so will be deemed as a waiver of the person's right to appeal, and the decision will be final. The written appeal shall state the reasons the outcome decision should be modified or reversed. For the purpose of this procedure, a "working day" shall be a weekday during which regular classes are being held at the College. Any sanctions imposed as a result of the Hearing are imposed during the appeal process. The College will provide preventative measures in an ongoing manner and/or specific to a case.

The Appeal Officer will communicate the decision to grant or deny the appeal to the requesting party within seven (7) working days of the request for appeal being received by the Appeal Officer. If the Appeal Officer, decides to grant the appeal, he or she will notify the other party involved in writing of an appeal and allow the other party seven (7) working days to submit a written statement. The Title IX Coordinator will also be notified of an appeal and may be asked to submit a response or to provide additional information regarding the case.

Although the length of each appeal will vary depending on the totality of the circumstances, the College strives to issue the final written appeal decision within (20) working days of an appeal being filed. After the appeal proceeding, the Appeal officer shall prepare a Notice of Appeal Outcome affirming, modifying, or reversing the Hearing outcome and summarizing the evidence supporting its decision. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' college-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, the Notice of Appeal Outcome will be presumptively delivered. The decision on the appeal will constitute final action and there will be no further appeal within the College.

#### Removal from College Properties

The College reserves the right to exclude from college property any person whom it reasonably believes poses a threat to the safety of any other person on College.

KCKCC maintains a Police Department to provide a safe environment to ensure the protection of the KCKCC community and its property. They are available 24-hours a day, year-round. More information can be found at [KCKCC Police](#) on the KCKCC website. The KCKCC Police Department works in cooperation with the Title IX office, as well as local, state, and federal law enforcement agencies, maintaining 24-hour radio access to the Kansas City Kansas Police Department.

Created: 05/18/2021