



Kankakee Community College

Harassment, Discrimination and Sexual Misconduct Policy Complaint Procedures

I. General Objective

- A. All college employees and board members are responsible to address and report any knowledge of harassment, discrimination or sexual misconduct. Employees and board members who have been put on notice of potential harassment, discrimination or sexual misconduct should report such conduct to the Title IX Coordinator, Julia Waskosky (Student Services Room L201, 815.802.8510, jwaskosky@kcc.edu) or the Affirmative Action Officer, David Cagle (Business Office Room L225, 815.802.8128, dcagle@kcc.edu). Reports of sexual misconduct may also be reported to the Campus Police Department (Student Center Room 175, 815.802.8195). Reports of sexual misconduct may be reported to confidential advisors at Kankakee County Center Against Sexual Assault (KC-CASA) (1440 W. Court St., Kankakee, IL 60901; 815.933.6796). Emergency and ongoing support as well as confidential advisors for survivors of sexual violence is available through the KC-CASA sexual assault hotline (815.932.3322-Kankakee; 815.432.0420-Iroquois).
- B. Any supervisor, manager, faculty, support staff, administrator, or professional technical staff who becomes aware of potential violations of the Harassment, Discrimination and Sexual Misconduct Policy, in the context of his/her role, is required to immediately contact the Title IX Coordinator or Affirmative Action Officer. These provisions apply whether the harassment, discrimination or sexual misconduct has taken place in another department or by an individual who is not a college student or employee.

II. Process for Addressing Complaints of Harassment, Discrimination, Sexual Misconduct

- A. Kankakee Community College has adopted the following definition as a guide to consent:

Consent is clearly communicating “Yes” about sexual activity on your own terms. It can be limited to certain acts and revoked at any time. Consent is the affirmative, unambiguous and voluntary agreement to engage in a specific sexual activity. If you’re initiating sexual activity, ask for consent before taking ANY action. If someone fails to say “no,” that doesn’t mean he/she is saying “yes.” You must obtain clear consent in that moment that is completely voluntary, without coercion, intimidation, force or threats. If you’re unsure that consent has been given or if consent is withdrawn, do NOT act. Consent given earlier for a certain act doesn’t mean you can automatically proceed with other acts. And your partner certainly has the right to change his/her mind. Consent also can’t be given if someone is unconscious, asleep, incapacitated (due to

alcohol/other drugs), a minor or physically/mentally impaired. If you have a current relationship with someone or did in the past, that doesn't mean you can proceed with sexual activity. You *always* need consent.

- B. Kankakee Community College will act on any formal or informal complaint or notice of violation of the policy on harassment, discrimination or sexual misconduct that is received by the Title IX Coordinator, Julia Waskosky, the Affirmative Action Officer, David Cagle, Campus Police, or college personnel.

The procedures described below will apply to all reports involving board members, employees and students. Redress and requests for corrective actions for reports brought against non-members of the campus community are also covered by these procedures.

III. Process for Resolving Complaints of Harassment, Discrimination, Sexual Misconduct

- A. The College's policy is to investigate all complaints of harassment, discrimination, or sexual misconduct thoroughly and promptly. The Title IX Coordinator and Affirmative Action Officer or trained delegates will initiate an investigation. If an investigation confirms that harassment, discrimination, or sexual misconduct occurred, the College will take corrective action including discipline up to and including immediate dismissal as is appropriate for violators. Confidentiality of all parties involved will be respected to the extent allowed by law.

For purposes of Title IX, the term "investigation" refers to the process KCC uses to resolve sexual violence complaints. This includes the fact-finding investigation and any hearing and decision-making process the college uses to determine (1) whether or not the conduct occurred; and (2) if the conduct occurred, what actions the college will take to end the sexual violence, eliminate the hostile environment, and prevent its recurrence, which may include imposing sanctions on the perpetrator and providing remedies for the complainant and broader student population.

A staff member is responsible for providing the names of the complainant and the alleged perpetrator so a thorough investigation of the allegation can be made. Staff members may not assure confidentiality to complainants of alleged harassment, discrimination or sexual misconduct. Instead, they should encourage any complainant to contact the Affirmative Action Officer, or in the case of a student, the Title IX Coordinator.

The college prohibits retaliation against anyone for reporting, assisting in make a complaint or cooperating in an investigation. Title IX protects all college students and personnel from retaliation if they report sexual harassment or violence. If the alleged

perpetrator or his/her friends taunts or harasses a complainant, the college will take strong responsive action.

An individual is not required by law to utilize the college's internal complaint process on sexual harassment. In Illinois, persons alleging sexual harassment may seek legal recourse with the Illinois Department of Human Rights, 100 West Randolph Street, Suite 10-100, Chicago, Illinois 60601 (312.814.6200), which investigates charges of sexual harassment and the Illinois Human Rights Commission, 100 West Randolph Street, Suite 5-100, Chicago, Illinois 60601, (312.814.6269), which processes complaints of sexual harassment.

In all Title IX investigations, the victim and/or complainant and the respondent shall receive simultaneous, written notification of the Title IX determination, including information regarding appeal rights, within seven (7) days of when the determination is made.

Students have the right to appeal any Code of Conduct or Title IX determination. For Title IX determinations, both the victim and/or complainant and the respondent have a right to appeal. Appeals must be submitted to the individual designated in the determination letter to accept appeals within 10 business days after receipt of the Code of Conduct or Title IX determination. Once a complaint has been decided based on the preponderance of evidence, both parties are notified in writing of the outcome, including sanction information, and both parties may file an appeal.

If a complainant or perpetrator does not appeal within the 10 business day period, the decision of the Code of Conduct Investigator or Title IX Coordinator will be final.

The appeal request must be typewritten and must state the grounds for appeal to the Judicial Review Board.

Appeals must be made based on one or more of the following.

1. A procedural error occurred.
2. The findings of fact in the decision contain inaccurate information.
3. New information not offered during the investigation that would substantially change the outcome of the finding is now available. In such cases, the new information must be described.
4. The sanction imposed is lenient, excessive or otherwise disproportionate with the violation.

Within 10 business days after receipt of the appeal request, the Judicial Review Board will decide if the appeal meets one of the above enumerated grounds of appeal. If the appeal is granted, the Judicial Review Board will review and consider the written findings and determination of the Code of Conduct Investigator or Title IX Coordinator, all evidence considered by the Code of Conduct Investigator or the Title IX Coordinator, the written appeal and, if applicable, new evidence offered for consideration, and will make a final decision. The Judicial Review Board shall provide its appeal decision in writing, along with all relevant documentation, to the Dean of Student Development.

The appellant will be notified of the appeal decision in writing, by certified mail, return receipt requested. In a Title IX appeal, both the victim and/or complainant and the respondent shall receive the appeal decision in writing within 7 days after the conclusion of the appeal review.

The dean may impose appropriate penalties regarding student violations that include:

- Suspension for one week to two years.
- Restricted enrollment;
- Restricted advisement;
- Restriction from campus and college activities; or
- Any other penalty judged to be appropriate for the particular offense.

B. Filing a Report

Any board member, employee, student, guest or visitor who believes that the Policy has been violated should contact the Title IX Coordinator or Affirmative Action Officer. It is also possible for employees to notify a supervisor, or for students to notify an administrator or faculty member, or any member of the campus community to contact campus police. These individuals will in turn notify the Title IX Coordinator or Affirmative Action Officer. The College website also includes a reporting forms which may serve to initiate a report:

- Discrimination, Harassment, or Misconduct - www.kcc.edu/Community/Collegeinfo/consumer-info/Pages/misconduct-complaint.aspx
- Title IX - www.kcc.edu/titleix
- Non-instructional Complaint - www.kcc.edu/Community/Collegeinfo/consumer-info/Pages/non-instructional-complaint.aspx

All employees receiving reports of a potential violation of the Policy are expected to promptly contact the Title IX Coordinator or Affirmative Action Officer within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with the maximum possible privacy: specific information on any complaints received by any party will be reported and every effort will be made to maintain privacy of those initiating a report of a complaint. In all cases, Kankakee Community College will give consideration to the reporting party with respect to how the report is pursued, but reserves the right when necessary to

protect the campus community and to investigate and pursue a resolution when a reporting party chooses not to initiate or participate in a formal investigation.

C. Report Intake

Upon receipt of notice or a report, the Title IX Coordinator or Affirmative Action Officer or designee will inform the reporting party of his/her right to an advisor of his/her choice, who may be present at all meetings. Advisors are not attorneys and are intended to support the reporting party.

The Title IX Coordinator, Affirmative Action Officer or designee will make an initial determination whether a policy violation may have occurred and/or whether conflict resolution may be appropriate. The report does not proceed to investigation if the reported incident does not appear to violate the policy or if conflict resolution is desired by the reporting party and appears appropriate given the nature of the alleged behavior. A full investigation will be pursued if there is an alleged policy violation or if there is evidence of a pattern of misconduct or a perceived threat of further harm to the campus community or any of its members.

D. Investigation

If a reporting party wishes to pursue a formal report or if the College, based on the alleged policy violation, wishes to pursue a formal investigation, then the Title IX Coordinator or Affirmative Action Officer appoints a trained designee to conduct the investigation. The Title IX Coordinator, Affirmative Action Officer or designee reserves the right to appoint an external party or agency to conduct the investigation, in consultation with the President. Investigation of reports brought directly by those alleging harm will be completed expeditiously. Investigations may take longer when initial reports fail to provide direct first-hand information. The College may undertake a short delay to allow evidence collection when criminal charges on the basis of the same behaviors that invoke this process are being investigated. College action will not 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 and impartial and will entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, if necessary. The College aims to complete all investigations within a 60 business day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator, Affirmative Action Officer, or designee with notices to the parties.

E. Interim Remedies

If, in the judgment of the Title IX Coordinator, Affirmative Action Officer, or designee, the safety or well-being of any member(s) of the campus community may be jeopardized by the on-campus presence of the responding party or the ongoing activity of a student organization whose behavior is in question, the Title IX Coordinator, Affirmative Action Officer, or designee may provide interim remedies intended to address the short-term effects of harassment, discrimination, sexual misconduct, and/or retaliation, i.e., to redress

harm to the reporting party/injured individual and the campus community and to prevent further violations. These remedies may include referral to counseling or to the Employee Assistance Program, education to the campus community, altering the class schedule of a student responding party (or the student reporting party, if desired), altering work arrangements for employees, providing campus escorts, implementing contact limitations between parties, offering adjustments to academic deadlines, course schedules, etc.

The College may do an interim suspension on a student, employee or organization pending the completion of an investigation. In all cases in which an interim suspension is imposed, the student, employee, or organization will be given the opportunity to meet with the Title IX Coordinator, Affirmative Action Officer, 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 Title IX Coordinator, Affirmative Action Officer, or designee has sole discretion to implement or stay an interim suspension under the Policy, and to determine its conditions and duration. Violation of an interim suspension under this Policy will be grounds for expulsion or termination.

During an interim suspension, a student or employee may be denied access to Kankakee Community College campus, satellite centers, facilities and/or events. As determined by the Title IX Coordinator, Affirmative Action Officer, or designee, this restriction includes classes and/or all other Kankakee Community College activities or privileges for which the student or employee might otherwise be eligible. At the discretion of the Title IX Coordinator, Affirmative Action Officer, or designee, alternative coursework options may be pursued to ensure as minimal an impact as possible on the student responding party.

F. Resolution

During or upon completion of investigation, the investigator(s) will meet with the Title IX Coordinator, Affirmative Action Officer, or designee. Based on that meeting, the Title IX Coordinator, Affirmative Action Officer or designee will make a decision on whether there is reasonable cause to proceed with the investigation. If the Title IX Coordinator, Affirmative Action Officer, or designee decides that no policy violation has occurred or that the preponderance of evidence (i.e., whether it is more likely than not that the responding party committed each alleged violation) does not support a finding of a policy violation, then the process will end unless the reporting party requests that the Title IX Coordinator, Affirmative Action Officer, or designee makes an extraordinary determination to re-open the investigation or to forward the matter to the Judicial Board Review team. This decision lies in the sole discretion of the Title IX Coordinator, Affirmative Action Officer, or designee. If there is reasonable cause, the Title IX Coordinator, Affirmative Action Officer, or designee will direct the investigation to continue, or if there is a preponderance of evidence of a violation, then the Title IX Coordinator, Affirmative Action Officer, or designee may recommend conflict resolution.

Conflict resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to a formal investigation to resolve conflicts. The Title IX Coordinator, Affirmative Action Officer, or designee will determine if conflict resolution is appropriate based on the willingness of the parties and the nature of the conduct at issue.

In a conflict resolution meeting, the Title IX Coordinator, Affirmative Action Officer, or designee will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as a result of a conflict resolution process, though the parties may agree to appropriate remedies. The Title IX Coordinator, Affirmative Action Officer, or designee will keep records of any resolution that is reached and failure to abide by the resolution can result in appropriate corrective actions.

Conflict resolution will not be the primary resolution mechanism used to address complaints of sexual misconduct or violent behavior or any kind or in cases of serious violations of policy, though it may be available after the formal process is completed should the parties and the Title IX Coordinator, Affirmative Action Officer, or designee believe that it could be beneficial. It is not necessary to pursue conflict resolution first in order to file a formal complaint and anyone participating in conflict resolution can stop that process at any time and request a formal investigation, if deemed necessary.

Resolution without a formal mechanism can be pursued for any behavior that falls within the policy at any time during the process. The Title IX Coordinator, Affirmative Action Officer, or designee will provide written notification of a report to any member of the Kankakee Community College community who is accused of an offense of harassment, discrimination, sexual misconduct or retaliation. The responding party may choose to admit responsibility for all or part of the alleged policy violation(s) at any point in the process. If such an admission is made, the Title IX Coordinator, Affirmative Action Officer, or designee will render a finding that the responding party is in violation of the Kankakee Community College policy for the admitted conduct, and will normally proceed to convene a formal investigation on any remaining disputed violation(s). For admitted violation, the appropriate investigator will recommend an appropriate sanction or corrective action in consultation with the Title IX Coordinator, Affirmative Action Officer, or designee. If the sanction or corrective action is accepted by both parties, the Title IX Coordinator, Affirmative Action Officer, or designee will implement it and act promptly and effectively to remedy the effects of the admitted conduct upon the injured individual and the campus community. If either party rejects the sanction or corrective action, a formal investigation will be held on the sanction/corrective action only, according to the investigation procedures.

G. Sanctions

Sanctions or corrective actions will be recommended by the Title IX Coordinator, Affirmative Action Officer, or designee. Factors considered when determining a sanction may include:

- The nature, severity of and circumstances surrounding the violation;
- An individual's disciplinary history;
- Previous reports or allegations involving similar conduct;
- Any other information deemed relevant;
- The need for sanctions/corrective actions to bring an end to the harassment, discrimination, sexual misconduct and/or retaliation;
- The need for sanctions or corrective actions to prevent the future recurrence of harassment, discrimination, sexual misconduct and/or retaliation;

- The need to remedy the effects of the harassment, discrimination, sexual misconduct and/or retaliation on the reporting party and the campus community.

a. Student Sanctions

Corrective actions for a student who has engaged in harassment, discrimination, sexual misconduct and/or retaliation may include, but are not limited to, probation, suspension, expulsion or any other sanction as deemed appropriate by the college. Student sanctions are described in more detail in the KCC Catalog, within the Code of Campus Affairs and Regulations, Code of Conduct section (Sec 17.0 in 2016-17 catalog) – kcc.smartcatalogiq.com/en/current/academic-catalog/code-of-campus-affairs-and-regulations/code-of-campus-affairs-and-regulations.

b. Employee Sanctions

Corrective actions for an employee who has engaged in harassment, discrimination, sexual misconduct, and/or retaliation may include, but not be limited to, disciplinary warning, required counseling or training, demotion, suspension with pay, suspension without pay and termination of employment.

H. Withdrawal or Resignation While Charges Pending

Students: The College does not permit a student to officially withdraw if that student has a charge pending for violation of the policy. Should a student decide to leave and not participate in the investigation, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to Kankakee Community College unless all sanctions have been satisfied.

Employees: Should an employee resign while charges are pending, the records of the Title IX Coordinator, Affirmative Action Officer, or designee will reflect that status. The process will nonetheless proceed without the employee's participation to resolution. In the event the employee is found in violation, the Title IX Coordinator, Affirmative Action Officer, or designee will act to promptly and effectively remedy the effects of the conduct upon the injured individual and the campus community.

I. Appeals

An appeal will be limited to procedural review except when substantive evidence is presented. All requests for appeal considerations must be submitted in writing to the Title IX Coordinator, Affirmative Action Officer, or designee within 10 business days after receipt of the Code of Conduct or Title IX determination. Once a complaint has been decided based on the preponderance of evidence, both parties are notified in writing of the outcome, including sanction information, and both parties may file an appeal.

The Title IX Coordinator, Affirmative Action Officer, or designee will appoint a three-member Judicial Review Board from the Behavioral Intervention Team, none of whom have been previously involved with the report or the investigation to consider all appeal requests. Appeals are limited to the following:

- If a procedural error or omission occurred
- The findings of fact in the decision contain inaccurate information.
- New information not offered during the investigation that would substantially change the outcome of the finding is now available. In such cases, the new information must be described.
- The sanction imposed is lenient, excessive or otherwise disproportionate with the violation.

The Judicial Review Board will review the appeal request(s). The original finding and sanction or corrective actions will stand if the appeal is not timely or is not based on the grounds listed above, and such decision is final. When any party requests an appeal, the other party (parties) will be notified and joined in the appeal. The party requesting 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.

For reports in which the Judicial Review Board finds that at least one of the grounds is met, and proceeds, additional principles governing the review of the process include the following:

- Decisions by the Judicial Review Board are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction/corrective action only if there is compelling justification to do so. Appeals are not intended to be full re-hearings of the report and investigation. In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the original investigator for reconsideration. Other appeals may be remanded to the original investigator at the discretion of the Title IX Coordinator, Affirmative Action Officer, or designee.
- Sanctions imposed are implemented as soon as practicable unless the Title IX Coordinator, Affirmative Action Officer, or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal. Sanctions involving termination of an employee are subject to approval by the Board of Trustees.
- The Title IX Coordinator, Affirmative Action Officer, or designee will normally, after conferring with the Judicial Review Board, render a written decision on the appeal to all parties within seven (7) days from the conclusion of the appeal process.
- All parties should be informed whether the grounds for an appeal are accepted and the results of the appeal decision.

- Once an appeal is decided, the outcome is final. Further appeals are not permitted.

J. Failure to Complete Sanctions/Comply with Corrective Actions

All parties are expected to comply with sanctions/corrective actions within the time frame specified by the Title IX Coordinator, Affirmative Action Officer, or designee. Failure to follow through on sanctions/corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/corrective actions, suspension, expulsion and/or termination from the college and may be noted on a student's discipline file or an employee's personnel file. A student suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator, Affirmative Action Officer, or designee. Sanctions involving suspension or termination of an employee are subject to the provisions of the appropriate college procedure, collective bargaining agreement, approval by the Board of Trustees and/or state and federal law.

K. Records

In implementing this policy, records of all reports, resolutions and appeals will be kept by the Title IX Coordinator, Affirmative Action Officer or designee indefinitely.

L. Statement of Reporting Party's Rights

- To be treated with respect by Kankakee Community College officials.
- To take advantage of campus support resources (Confidential Advisors, community counseling services, Employee Assistance Program and other services).
- To experience a safe educational and work environment.
- To have an advisor during this process.
- To refuse to have an allegation resolved through conflict resolution procedures.
- To receive amnesty for minor student misconduct (such as alcohol or drug violations) that is ancillary to the incident.
- To be free from retaliation.
- To have reports heard in substantial accordance with these procedures.
- To full participation of the injured party in any investigative or appeal process whether the injured party is serving as the reporting party or the College is serving as reporting party.
- To be informed in writing of the outcome/resolution of the report, sanctions/corrective actions where permissible and the rationale for the outcome where permissible.
- To be referred to law enforcement and have appropriate assistance.

J. Statement of Responding Party's Rights

- To be treated with respect by Kankakee Community College officials.
- To take advantage of campus support resources (Community counseling services or Employee Assistance Program for employees).
- To have an advisor during this process.
- To refuse to have an allegation resolved through conflict resolution procedures.

- To receive amnesty for minor student misconduct (such as alcohol or drug violations) that is ancillary to the incident.
- To be free from retaliation.
- To have reports heard in substantial accordance with these procedures.
- To be informed in writing of the outcome/resolution of the report and the rationale for the outcome.

K. Revision

These procedures will be updated by the Title IX Coordinator, Affirmative Action Officer, or designee at any time in accordance with federal and state of Illinois law. The Title IX Coordinator, Affirmative Action Officer, or designee may make minor modifications to the procedure that do not materially jeopardize the fairness owed to any party. However, the Title IX Coordinator, Affirmative Action Officer, or designee may also vary procedures with notice (on the institutional website with appropriate date of effect identified) upon determining that changes to law or regulation require alterations not reflected in the current procedure. Procedures in effect at the time of its implementation will apply. Policy in effect at the time of the offense will apply even if the policy is changed subsequently, unless the parties consent to be bound by the current policy. Any revisions will be noted in the online version of the policy and procedures will include the date of revision and will highlight the specific revisions for three months following the date of the revision.