Defiance College Racial, Religious, and Ethnic Harassment and Intimidation Policy

INTRODUCTION AND RATIONALE FOR POLICY

As part of its commitment to promoting a safe and healthy campus environment for the Defiance College community and cultivating a culture that fosters respect for the dignity and rights of all its members, the College does not tolerate hazing activities by any members of the Defiance College community. Defiance College is committed to providing an educational environment, as well as other benefits, programs, and activities that are free from hazing and retaliation. To ensure compliance with federal and state laws and regulations, and to affirm its commitment to a safe and healthy campus, Defiance College has developed internal policies and procedures that will provide a prompt, fair, and impartial process for those involved in an allegation of hazing. Defiance College values and upholds the equal dignity of all members of its community and strives to balance the rights of all parties in what is often a difficult time for all those involved.

1. Policy

Per the *Defiance College Equal Opportunity, Harassment, Discrimination and Sexual Misconduct Policy*, Defiance College adheres to all federal, state and local civil rights laws and regulations prohibiting racial, religious, and ethnic discrimination, harassment and intimidation.

a. Protected characteristics

Defiance College does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of: **race**, **ethnicity, religion**, **national origin**, sex, gender, gender identity/expression, sexual orientation, age, disability, genetic information, marital status, veteran status or any other protected characteristic under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process within the institution, with the Equal Employment Opportunity Commission, and/or other human/civil rights agencies.

This Policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the Defiance College community whose acts deny, deprive, or limit the educational or employment or residential and/or social access, benefits, and/or opportunities of any member of the College community, guest, or visitor on the basis of that person's actual or perceived protected characteristics listed above is in violation of the Defiance College Policy on Nondiscrimination.

When brought to the attention of Defiance College, any such discrimination will be promptly and fairly addressed and remedied by the College according to the appropriate grievance process described below.

Discriminatory Harassment Policy

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under Defiance College Policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of College Policy, though supportive measures will be offered to those impacted. All offense definitions encompass actual and/or attempted offenses

a. Discriminatory Harassment

Discriminatory harassment – defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived characteristic protected by policy or law – is a form of prohibited discrimination under College policy.

Defiance College does not tolerate discriminatory harassment of any employee, student, visitor, or third party. The College will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a "hostile environment."

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, and/or physical conduct that is severe and pervasive and objectively offensive.

When discriminatory harassment rises to the level of creating a hostile environment, Defiance College may also impose sanctions on the Respondent through application of the appropriate grievance process below.

The Defiance College reserves the right to address offensive conduct and/or harassment that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not based on a protected characteristic. Addressing such conduct will not result in the imposition of discipline under Defiance College policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other Informal Resolution mechanisms.

For assistance with Alternative Resolution and other Informal Resolution techniques and approaches, employees should contact the Director of Human Resources, and students should contact the Dean of Students/Title IX Coordinator.
The College additionally prohibits the following offenses as forms of discrimination when the act is based upon the Complainant's actual or perceived protected characteristics.

1) **Harm to Persons,** intentional or recklessly causing physical harm or endangering the health or safety of any person;
2) **Threat,** defined as written or verbal conduct that causes a reasonable expectation of injury to the health or safety of any person or damage to any property;
3) **Discrimination**, defined as any act or failure to act that is based upon an individual or group's actual or perceived status (sex, gender, gender identity/expression, race, age, national or ethnic origin, disability, genetic information, veteran status, marital status, religion, sexual orientation, or other protected status) that is sufficiently severe that it limits or denies the ability to participate in or benefit from the College's educational program or activities.

4) **Harassment,** Any unwelcome conduct based on actual or perceived status including: sex, gender, gender identity/expression, race, age, national or ethnic origin, disability, genetic information, veteran status, marital status, religion, sexual orientation, or other protected status;
5) I**ntimidation**, defined as implied threats or acts that cause an unreasonable fear of harm in another;
6) **Hazing,** defined as acts likely to cause physical or psychological harm or social ostracism to any person within the college community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy);
7) **Bullying and Cyberbullying,** defined as repeated and/or severe aggressive behaviors that intimidate or intentionally harm or control another person physically or emotionally and are not protected by freedom of expression.

Violation of any other Defiance College policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived protected characteristic, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Civil Rights Offenses range from warning through expulsion/termination.

2. Notice/Complaints of Racial, Religious, or Ethnic Harassment or Intimidation

Notice or complaints may be made using any of the following options:

1) File a report or Formal Complaint with, or give verbal notice to, the Report directly to the Title IX Coordinator or Deputy Coordinators. Such a report or Formal Complaint may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office, listed for the Title IX Coordinator or any other official listed.

Title IX Coordinator:
Lisa Marsalek, Vice President for Student Affairs and Dean of Students
128 Hubbard Hall, 701 N. Clinton St., Defiance, OH 43512
(419) 783-2587 or lmarsalek@defiance.edu

Deputy Title IX Coordinators:
Mary Burkholder, Director of Human Resources
106 F Defiance Hall, 701 N. Clinton St., Defiance, OH 43512
(419) 783-2360 or mburkholder@defiance.edu

Matthew Gehring, Assistant Athletic Director for Compliance, Facilities, and Internships
105H McMaster Center, 701 N. Clinton St., Defiance, OH 43152
(419) 783-2378 or mgehring@defiance.edu

Jennifer Walton, Associate Dean of Student Belongingness and Director of Residence Life
126 Hubbard Hall, 701 N. Clinton St, Defiance, OH 43512
(419) 783-2563 or jwalton@defiance.edu

2) Report online, using the reporting form posted at https://www.defiance.edu/communication-information.html. Anonymous reports are accepted

but can give rise to a need to investigate to determine if the parties can be identified. If not, no further formal action is taken, though measures intended to protect the community may be enacted. Defiance College tries to provide supportive measures to all Reporting Parties, which may be impossible with an anonymous report that does not identify the Reporting and/or Responding Party.

3) In the event of an emergency, please call 911.

3. Supportive Measures

Defiance College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available. They are offered, without fee or charge, to the parties to restore or preserve access to the Defiance College's education program or activity, including measures designed to protect the safety of all parties and/or Defiance College's educational environment, and/or to deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, Defiance College will inform the Complainant, in writing, that they may file a Formal Complaint with College either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

Defiance College will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the College's ability to provide those supportive measures. Defiance College will act to ensure as minimal an academic/occupational impact on the parties as possible. Defiance College will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related
- adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence

- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

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

4. Emergency Removal

The Defiance College can act to remove a Student Respondent from its education program or activities -partially or entirely- on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator.

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

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

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

The Title IX Coordinator has sole discretion under this Policy to implement or modify an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

Defiance College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take incomplete grades without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural/club athletics.

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

When the Respondent is an employee, or a student employee, accused of misconduct in the course of their employment, existing provisions for interim action are applicable instead of the above emergency removal process.

5. Promptness

Once Defiance College has received notice of a Formal Complaint, all allegations are promptly acted upon. Complaints typically take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in the Defiance College procedures will be delayed, the College will provide written notice to the parties of the delay, the cause for the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

6. Confidentiality/Privacy

Every effort is made by Defiance College to preserve the confidentiality of reports.[1] The College will not share the identity of any individual who has made a report or complaint of racial, religious or ethnic harassment or intimidation or retaliation; any Reporting Party; any individual who has been reported to be the perpetrator of racial, religious or ethnic harassment or intimidation; any Responding party, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

Defiance College reserves the right to determine which College officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: Office of Student Life, Campus Safety, and the CARE Team. Information will be shared as necessary with Investigators, Hearing Panel members/Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

Defiance College may contact parents/guardians of students to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

Confidentiality and mandated reporting are addressed more specifically below.

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[1] For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of Defiance College employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the Defiance College's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the

Family Educational Rights and Privacy Act ("FERPA"), as outlined in the Defiance College's FERPA policy. The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. Defiance College has designated individuals who have the ability to have privileged communications as Confidential Resources. For more information about Confidential Resources, see page 8. When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clery Act. Other information may be shared as required by law.

7. Jurisdiction of Defiance College

This Policy applies to Defiance College's education program or activities to conduct that takes place on the campus or on property owned or controlled by Defiance College, at Defiance College-sponsored events, and in buildings owned or controlled by Defiance College's recognized student organizations. The Respondent must be a member of Defiance College's community in order for this Policy to apply.

This Policy can also be applicable to the effects of off-campus misconduct that effectively deprive a person of access to Defiance College's education program or activities. The College may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial Defiance College interest. The College does not regularly search for online information but may take action if such information is brought to the attention of College officials.

Regardless of where the conduct occurred, the Defiance College will address notice/complaints to determine whether the conduct occurred in the context of its employment or education program or activity and/or has continuing effects on campus (including virtual learning or employment environments) or in an off campus sponsored program or activity. A substantial Defiance College interest includes:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.

2. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student, employee or other individual.

3. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others, or significantly breaches the peace, and/or causes social disorder.

4. Any situation that substantially interferes with the educational interests or mission of Defiance College.

If the Respondent is unknown or is not a member of the Defiance College community, the Title IX Coordinator will assist the Complainant in identifying appropriate institutional and local resources and support options. If criminal conduct is alleged, the College can assist in contacting local law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the Defiance College's community, supportive measures, remedies, and resources may be provided to the Complainant by contacting the Title IX Coordinator

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

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

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to pursue actions under that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the Defiance College where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse.

8. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the Defiance College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

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

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

9. Online Harassment and Misconduct

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

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

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites; sharing inappropriate content social media,; sexual or sex-based messaging; distributing or threatening to distribute nude or semi-nude photos or recordings; breaches of privacy; or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the Defiance College community.

10.Retaliation

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

Acts of alleged retaliation should be reported immediately to the Dean of Students/Title IX Coordinator and will be promptly investigated. The College will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

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

The exercise of rights protected under the First Amendment does not constitute retaliation.

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

11. Mandated Reporting

All Defiance College employees (faculty, staff, and administrators) are expected to report actual or suspected racial, religious or ethnic harassment or intimidation and/or retaliation to appropriate officials immediately, although there are some limited exceptions. Failure of a non-confidential employee, as described in this section, to report an incident of racial, religious or ethnic harassment or intimidation of which they become aware is a violation of College policy and can be subject to disciplinary action for failure to comply.

To make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting institutional resources. Within the institution, some resources may

maintain confidentiality and are not required to report actual or suspected harassment, discrimination or retaliation in a way that identifies the parties. They may offer options and resources without any obligation to inform an outside agency or institution official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

The following sections describe the reporting options at Defiance College for a Complainant or third-party (including parents/guardians when appropriate):

a. Confidential Resources

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

- Director of Counseling & Accessibility Services, Kris Knight: 419-783-2548
- Accessibility Services Coordinator and Case Manager, Nikki Arnold 419-783-2445

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials or official designation, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

Campus counselors and/or the Employee Assistance Program are available to help free of charge and may be consulted on an emergency basis during normal business hours.

Defiance College employees who have confidential privilege as described above, and who receive reports within the scope of their confidential roles, will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client.

b. Mandated Reporters and Formal Notice/Complaints

All employees of the College (including student employees), with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Dean of Students/Title IX Coordinator all known details of a report made to them in the course of their employment.

A “mandatory reporter” must immediately report knowledge of racial, religious or ethnic harassment or intimidation as defined in Section (1) of this Policy to the College through any of the five reporting options outlined in Section (2) of this Policy. Each of the following is considered a “mandatory reporter”: (1) Any full or part-time employee of the College (including student employees and graduate assistants), or (2) Any volunteer acting in an official capacity who advises or coaches student organizations and/or student groups and who have direct contact with students. Employees who are required by law to

protect confidentiality are exempt from this requirement. Note: Reports made pursuant to this Policy do not supersede or replace other reporting obligations

Failure of a Mandated Reporter, as described above in this section, to report an incident of racial, religious or ethnic harassment or intimidation of which they become aware is a violation of Defiance College Policy and can be subject to disciplinary action for failure to comply.

12. Federal Timely Warning Obligations

Defiance College must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

Defiance College will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

13. False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

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

The Defiance College community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to College officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the Defiance College community that Complainants choose to report misconduct to College officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, Defiance College maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty to a Respondent is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

A. **Students**

Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to College officials or the hospital.

Defiance College maintains a policy of amnesty for students who offer help to others in need. Although policy violations cannot be overlooked, the Def College may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.

B. Employees

Sometimes, employees are hesitant to report harassment**,** discrimination, or retaliation they have experienced for fear that they may get in trouble themselves. The College may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis.

14. Training

This policy will be distributed annually through email as well as during training. All administrators, faculty and staff will receive training on how to respond to hate incidents or incidents of harassment that occur during a class or event at the institution at the time the incident occurs. This training may be provided in person or online.

RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE EQUAL OPPORTUNITY, HARASSMENT, DISCRIMINATION AND SEXUAL MISCONDUCT POLICY - PROCESS B

Defiance College will act on any formal or informal allegation or notice of violation of the Equal Opportunity, Harassment, Discrimination and Sexual Misconduct Policy that is received by the Title IX Coordinator or a member of the administration, faculty, or other employee, with the exception of confidential resources, as articulated in the Policy above.

The procedures described below apply to all allegations of harassment, discrimination and/or retaliation on the basis of protected characteristic status involving students, staff, faculty members, or third parties.

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing, discriminatory or retaliatory conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this Policy will be addressed through the procedures elaborated in the respective student, faculty and staff handbooks.

1. Initial Assessment

Following intake, receipt of notice, or a complaint of an alleged violation of Defiance College's nondiscrimination policy, the Title IX Coordinator engages in an initial assessment, which is typically one (1) to five (5) business days in duration. The steps in an initial assessment can include:

- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they have an Advisor.

- The Title IX Coordinator works with the Complainant to determine which of three options to pursue: A Supportive Response, an Information Resolution or an Administrative Resolution.
    - If a Supportive Response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes and then seeks to facilitate implementation. An Administrative Resolution process is not initiated, though the Complainant can elect to initiate it later, if desired.
    - If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for Informal Resolution and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
    - If Administrative Resolution is preferred, the Title IX Coordinator initiates the investigation process and determines whether the scope of the investigation will address:
        - Incident, and/or
        - A potential pattern of misconduct, and/or
        - A culture/climate issue.
- In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the CARE team as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:
    - Interim suspension of a Respondent who is a threat to health/safety;
    - Whether the Title IX Coordinator should pursue Administrative Resolution absent a willing/able Complainant;
    - Whether to put the investigation on the footing of incident and/or pattern and/or climate;
    - To help identify potentially predatory conduct;
    - To help assess/identify grooming behaviors;
    - Whether a Complaint is amenable to Informal Resolution, and what modality may be most successful;
    - Whether to permit a voluntary withdrawal by the Respondent;
    - Whether to impose transcript notation or communicate with a transfer recipient about a Respondent;
    - Assessment of appropriate sanctions/remedies;
    - Whether a Clery Act Timely Warning and/or Trespass Order/Persona-Non Grata is needed.

More about the Defiance College's process for VRA can be found in Appendix D.

Based on the initial assessment, Defiance College will initiate one of these responses:

- Supportive Response – measures to help restore the Complainant's education access, as described in the Policy.
- Informal Resolution – typically used for less serious offenses and only when all parties agree to Informal Resolution, or when the Respondent is willing to accept responsibility for violating policy.
- Administrative Resolution – investigation of alleged policy violation(s) and recommended finding, subject to a determination by the Title IX Coordinator and the opportunity to appeal to the Appeal Decision-Maker(s).

The investigation and the subsequent Administrative Resolution determine whether the Equal Opportunity, Harassment, Discrimination and Sexual Misconduct Policy has been violated. If so, the College will promptly implement effective remedies designed to end the discrimination, prevent recurrence, and address the effects.

The process followed considers the preference of the parties but is ultimately determined at the discretion of the Title IX Coordinator. If at any point during the initial assessment or formal investigation, if the Title IX Coordinator determines that reasonable cause does not support the conclusion that policy has been violated, the process will end, and the parties will be notified.

The Complainant may request that the Title IX Coordinator review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator, but the request is usually only granted in extraordinary circumstances.

2. Resolution Process Pool

The Resolution Process relies on a pool of officials ("Pool") to carry out the process. Members of the Pool are announced in an annual distribution of this Policy to all students and their parents/guardians, employees, prospective students, and prospective employees.

The list of members and a description of the Pool can be found at http://www.defiance.edu/student-life/info/campus-safety-and-compliance.html Members of the Pool are trained annually in all aspects of the Resolution Process and can serve in any of the following roles, at the direction of the Title IX Coordinator:

- To provide sensitive intake for and initial advice pertaining to the allegations
- To act as optional process Advisors to the parties
- To facilitate Informal Resolution
- To investigate allegations
- To serve as a Decision-maker
- To serve as an Appeal Decision-Maker

The Title IX Coordinator, in consultation with the President, carefully vets Pool members for potential conflicts of interest or disqualifying biases and appoints the Pool, which acts with independence and impartiality.

Pool members receive annual training organized by the Title IX Coordinator, including a review of Defiance College policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety, and promote accountability.

The Pool members receive annual training specific to their role. This training includes, but is not limited to:

- The scope of the Defiance College's Equal Opportunity, Harassment, Discrimination and Sexual Misconduct Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents and promote accountability
- Implicit bias

- Disparate treatment
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- How to conduct a sexual harassment investigation
- Trauma-informed practices pertaining to investigations and Resolution Processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- Types of evidence
- Deliberation
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by the College with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with Policy
- How to conduct an investigation and grievance process including hearings, appeals, and Informal Resolution Processes
- How to serve impartially, by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or Complainants, and on the basis of sex, race, religion, and other protected characteristics.
- Any technology to be used
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment and discrimination allegations

The Resolution Process Pool includes:

Jacob Arnold
Mary Burkholder
Collette Knight
Sidney Faine
Matt Gehring
Nicole Hoffman
Jack Lawson
Lisa Marsalek
Jeremy Taylor
Nat Shingler
Jennifer Walton
Bridgette Winslow

Individuals who are interested in serving in the Pool are encouraged to contact the Title IX Coordinator.

External, trained third-party neutral professionals may also be used to serve in pool roles.

3. Counterclaims

Counterclaims by the Respondent may be made in good faith or may instead be motivated by a retaliatory intent. Defiance College is obligated to ensure that any process is not abused for retaliatory purposes.

The College permits the filing of counterclaims, but uses the initial assessment, described above, to assess whether the allegations are made in good faith. If they are, the allegations will be processed using the resolution procedures below, typically after resolution of the underlying allegation. Counterclaims made with retaliatory intent will not be permitted.

A delay in the processing of counterclaims is permitted, accordingly. Occasionally, allegations and counterclaims can be resolved through the same investigation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory, and may constitute a violation of this Policy.

4. Advisors

A. Advisor Expectations

The College generally expects an Advisor to adjust their schedule to allow them to attend Defiance College meetings when planned, but the College may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The College may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

Parties whose Advisors are disruptive or who do not abide by Defiance College policies and procedures may face the loss of that Advisor and/or possible Policy violations.

Advisors are expected to consult with their advisees without disrupting College meetings or interviews. Advisors do not represent parties in the process; their role is only to advise.

B. Expectations of the Parties with Respect to Advisors

Each party may choose an Advisor who is eligible and available[1] to accompany them throughout the process. The Advisor can be anyone, including an attorney, but should not be someone who is also a witness in the process. A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout.

The parties are expected to inform the Investigators of the identity of their Advisor at least two (2) business days before the date of their first meeting with the Investigator(s) (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Investigator(s) and/or the Title IX Coordinator if they change Advisors at any time.

[1] "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

Upon written request of a party, the College will copy the Advisor on all communications between the Defiance College and the party. The Advisor may be asked to sign a non-disclosure agreement (NDA) regarding private, sensitive records

At the discretion of the Title IX Coordinator, more than one Advisor may be permitted to the parties, upon request. For equity purposes, if one party is allowed another Advisor, the other party must be allowed one to as well.

C. Assistance in Securing an Advisor

Defiance College will provide a Process Advisor if a student does not have an advisor but wishes to have one.

For representation, Respondents may wish to contact organizations such as:

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

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (http://www.victimrights.org)
- The National Center for Victims of Crime (http://www.victimsofcrime.org), which maintains the Crime Victim's Bar Association
- The Time's Up Legal Defense Fund: https://nwlc.org/times-up-legal-defense-fund/]

5. Resolution Options

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 Defiance College Policy.

While there is an expectation of privacy around what is discussed during interviews, the parties have discretion to share their own experiences with others if they so choose but are encouraged to discuss with their Advisors first before doing so.

A. Informal Resolution

Informal Resolution is applicable when the parties voluntarily agree to resolve the matter through Alternative Resolution (mediation, restorative practices, facilitated dialogue etc.,) when the Respondent accepts responsibility for violating Policy, or when the Title IX Coordinator can resolve the matter informally by providing remedies to resolve the situation. The Title IX Coordinator has discretion to determine if an investigation will be paused during Informal Resolution, or if it will be limited, or will continue during the Informal Resolution process.

It is not necessary to pursue Informal Resolution first in order to pursue Administrative Resolution, and any party participating in Informal Resolution can stop the process at any time and request the Administrative Resolution process. Further, if an Informal Resolution fails after the resolution is finalized, Administrative Resolution may be pursued.

i. Alternative Resolution Approaches

Alternative Resolution is an informal process, such as mediation or restorative practices, by which the parties mutually agree to resolve an allegation. It may be used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the Administrative Resolution process (described

below) to resolve conflicts, as appropriate. The parties must consent to the use of Alternative Resolution.

The Title IX Coordinator determines if Alternative Resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to Alternative Resolution.

In an Alternative Resolution, a trained administrator or third party facilitates communication among the parties to an effective resolution, if possible. Institutionally imposed sanctions are not possible as the result of an Alternative Resolution process, though the parties may agree to accept sanctions and/or appropriate remedies.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution can result in appropriate enforcement actions.

Alternative Resolution is not typically the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though similarly structured conversations may be made available after the Administrative Resolution process is completed should the parties and the Title IX Coordinator believe it could be beneficial. The results of Alternative Resolution are not appealable.

i. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the Resolution Process. If the Respondent accepts responsibility, the Title IX Coordinator determines that the individual is in violation of College policy.

The Title IX Coordinator then determines appropriate sanction(s) or responsive actions, which are promptly implemented in order to effectively stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the conduct, both on the Complainant and the community.

If the Respondent accepts responsibility for all of the alleged policy violations and the Title IX Coordinator or designee has determined appropriate sanction(s) or responsive actions, to which the Respondent agrees, and which are promptly implemented, the process is over. The Complainant [may be consulted on and] will be informed of this outcome.

If the Respondent accepts responsibility for some of the alleged policy violations and the Title IX Coordinator has determined appropriate sanction(s) or responsive actions, to which the Respondent agrees, and which are promptly implemented for those violations, then the remaining allegations will continue to be investigated and resolved through Administrative Resolution. The parties will be informed of this outcome. The parties are still able to seek Alternative Resolution on the remaining allegations, subject to the stipulations above.

a) Administrative Resolution via and Investigation

Administrative Resolution can be pursued at any time during the process for any behavior for which the Respondent has not accepted responsibility that would constitute conduct covered by the Equal Opportunity, Harassment, and Nondiscrimination Policy if proven. Administrative Resolution starts with a thorough, reliable, and impartial investigation.

If Administrative Resolution is initiated, the Title IX Coordinator will provide written notification of the investigation to the parties at an appropriate time during the investigation. Typically, notice is in advance of an interview. Advanced notice facilitates the parties' ability to identify and choose an Advisor, if any, to accompany them to the interview.

Notification will include a meaningful summary of the allegations, 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 Defiance College records, or emailed to the parties' College-issued or designated email account.

Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The notification will include the policies allegedly violated, if known at the time. Alternatively, the policies allegedly violated can be provided at a later date, in writing, as the investigation progresses, and details become clearer.

The College aims to complete all investigations within a sixty (60) business day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator, with notice to the parties as appropriate. Investigations can take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

Once the decision is made to commence an investigation, the Title IX Coordinator appoints Pool members to conduct the investigation (typically using a team of two Investigators), usually within two (2) business days of determining that an investigation should proceed.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no conflicts of interest or disqualifying bias.

The parties may, at any time during the Resolution Process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the bias or conflict relates to the Title IX Coordinator, concerns should be raised with the Defiance College President.

Investigations are completed expeditiously, normally within 10-20 business 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 will make a good faith effort to complete the investigation as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

The College may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges based on the same behaviors that invoke the Defiance College's Resolution Process are being investigated by law enforcement. The College will promptly resume its investigation and Resolution Process once notified by law enforcement that the initial evidence collection process is complete.

Defiance College action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary.

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

6. Investigation

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

- Determine the identity and contact information of the Complainant
- In coordination with institutional partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct
- Assist the Title IX Coordinator with conducting an initial assessment to determine if there is reasonable cause to believe the Respondent has violated policy
- If there is insufficient evidence to support reasonable cause, the process is closed with no further action
- Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all parties and witnesses
- Meet with the Complainant to finalize their statement, if necessary
- Prepare the initial Notice of Investigation and Allegations (NOIA) on the basis of the initial assessment. Notice may be one step or multiple steps, depending on how the investigation unfolds, and potential policy violations may be added or dropped as more is learned. Investigators will update the NOIA accordingly and provide it to the parties.
- Notice should inform the parties of their right to have the assistance of a Pool member as a process Advisor appointed by the College or an Advisor of their choosing present for all meetings attended by the advisee
- When formal notice is being given, it should 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
- Give an instruction to the parties to preserve any evidence that is directly related to the allegations
- Provide the parties and witnesses with an opportunity to review and verify the Investigator's summary notes from interviews and meetings with that specific party or witness
- Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible
- Interview all relevant individuals and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest questions they wish for the Investigator(s) to ask of the other party and witnesses
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation

- Prior to the conclusion of the investigation, summarize for the parties the list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation and all evidence
- Provide the parties with a copy of the draft investigation report when it is completed, including all relevant evidence, analysis, credibility assessments, and recommended finding(s)
- Provide each party with a full and fair opportunity to respond to the report in writing within 5 calendar days and incorporate that response, if any, into the report
- Investigators may choose to respond in writing in the report to the responses of the parties, and/or to share the responses between the parties for their responses, while also ensuring that they do not create a never-ending feedback loop
- Share the report with the Title IX Coordinator or legal counsel for review and feedback.
- Provide the final report to the Title IX Coordinator with one of two options:
    - In the report, include a recommended determination, based on a preponderance of the evidence, whether a policy violation is more likely than not to have occurred; OR
    - Gather, assess, and synthesize evidence without making a finding, conclusion, determination or recommendation.

7. Determination

Within two to three business days of receiving the Investigator's recommendation, the Title IX Coordinator or a trained, designated Decision-maker from the Pool[2] reviews the report and all responses, and then makes the final determination on the basis of the preponderance of the evidence.

If the record is incomplete, the Title IX Coordinator/Decision-maker may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the parties or any witnesses, if needed.

The investigation recommendation, in any, should be strongly considered but is not binding on the Title IX Coordinator/Decision-Maker. The Title IX Coordinator or Decision-maker may invite and consider impact and/or mitigation statements from the parties if and when determining appropriate sanction(s), if any.

8. Additional Details of the Investigation Process

A. Witness Responsibilities

Witnesses (as distinguished from the parties) who Defiance College faculty or staff are required to cooperate with and participate in the College's investigation and Resolution Process. Failure of a witness to cooperate with and/or participate in the investigation or Resolution Process constitutes a violation of Policy and may be subject to discipline.

[2] When the Title IX Coordinator is the Investigator or has been heavily involved in the process prior to determination, a Decision-maker should be designated from the Pool to ensure there is no conflict of interest.

B. Remote Processes

Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigator(s) and/or Decision-maker determine that timeliness, efficiency or other causes dictate a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, or respond to questions in writing, if deemed appropriate by the Investigator(s), though this approach is not ideal. When remote technologies are used, the College makes reasonable efforts to ensure privacy, and ensures that any technology does not work to the detriment of any party or subject them to unfairness.

C. Recording

No unauthorized audio or video recording of any kind is permitted during the Resolution Process including investigation interviews. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

D. Evidence

Any evidence that is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct, subject to the limitation in (E) below. The process should exclude irrelevant or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.

E. Prior Sexual history/patterns

Unless the Title IX Coordinator/Decision-Maker determines it is appropriate, the investigation and the finding do not consider: (1) incidents not directly related to the possible violations, unless they evidence a pattern; (2) the irrelevant sexual history of the parties (though there may be a limited exception made with regard to the sexual history between the parties); or (3) irrelevant character evidence.

F. Previous Allegations/Violations

While previous conduct violations by the Respondent are not generally admissible as information supporting the current allegation, the Investigator(s) may supply the Title IX Coordinator/Decision-Maker with information about previous good faith allegations and/or findings, when that information suggests potential pattern and/or predatory conduct.

Previous disciplinary action of any kind involving the Respondent may be considered in determining the appropriate sanction(s), if the Defiance College uses a progressive discipline system.

Character witnesses or evidence may be offered. The investigation and hearing will determine if the character evidence is relevant. If so, it may be included. If not, it will be excluded.

G. Notification of outcome

If the Respondent admits to the violation(s), or is found in violation, the Title IX Coordinator [in consultation with other administrators as appropriate] determines sanction(s) and/or responsive actions, which are promptly implemented in order to effectively to stop the harassment, discrimination,

and/or retaliation; prevent its recurrence; and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

The Title IX Coordinator informs the parties of the determination within two to three (2-3) business days of the resolution, ideally simultaneously, but without significant time delay between notifications. Notifications are 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 Defiance College records; or emailed to the parties' Defiance College-issued or designated email account. Once mailed, emailed, and/or received in-person, notice is presumptively delivered.

The Notification of Outcome specifies the finding for each alleged policy violation, any sanction(s) that may result which the College is permitted to share pursuant to state or federal law, and the rationale supporting the findings to the extent the College is permitted to share under state or federal law.

The notice will detail when the determination is considered final and will detail any changes that are made prior to finalization.

Unless based on an acceptance of violation by the Respondent, the determination may be appealed by either party. The Notification of Outcome also includes the grounds on which the parties may appeal and the steps the parties may take to request an appeal of the findings. More information about the appeal procedures can be found in Section 11..

9. Sanctions

Factors considered when determining any sanction(s)/responsive action(s) may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violations
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Title IX Coordinator/Decision-Maker

The sanction(s) will be implemented as soon as is feasible. The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by outside authorities.

A. Student Sanctions

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

- **Warning:** An official written notice that the student has violated College policies and/or rules and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at the College.

- **Restitution**: Compensation for damage caused to the College or any person's property. This could also include situations such as failure to return a reserved space to proper condition – labor costs and expenses. This is not a fine but, rather, a repayment for labor costs and/or the value of property destroyed, damaged, consumed, or stolen.
- **Fines**: Reasonable fines may be imposed. Fines are specified to include: $100 for intentionally or negligently activating a fire alarm.
- **Community/College Service Requirements**: For a student or organization to complete a specific supervised Community/College service.
- **Loss of Privileges:** The student will be denied specified privileges for a designated period of time.
- **Confiscation of Prohibited Property**: Items whose presence is in violation of College policy will be confiscated and will become the property of the College. Prohibited items may be returned to the owner at the discretion of the Dean of Students (or designee).
- **Behavioral Requirement**: This includes required activities including, but not limited to, seeking academic counseling or substance abuse screening, writing a letter of apology, etc.
- **Educational Program: Requirement** to attend, present and/or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted.
- **Restriction of Visitation Privileges**: May be imposed on a resident or non-resident student. The parameters of the restriction will be specified.
- **College Housing Probation:** Official notice that, should further violations of Residence Life or College policies occur during a specified probationary period, the student may immediately be removed from College/housing. Regular probationary meetings may also be imposed.
- **College Housing Reassignment**: Reassignment to another College housing facility. Residential Life personnel will decide on the reassignment details.
- **College Housing Suspension**: Removal from College housing for a specified period of time after which the student is eligible to return. Conditions for re-admission to College housing may be specified. Under this sanction, a student is required to vacate College housing within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Residence Life. This sanction may be enforced with a trespass action if deemed necessary. Prior to reapplication for College housing, the student must gain permission from the Director of Residence Life (or designee). This sanction may include restrictions on visitation to specified buildings or all Defiance housing during the suspension.
- **College Housing Expulsion**: The student's privilege to live in, or visit, any College housing structure is revoked indefinitely. This sanction may be enforced with a trespass action if deemed necessary.
- **College Probation:** The student is put on official notice that, should further violations of College policies occur during a specified probationary period, the student may face suspension or expulsion. Regular probationary meetings may also be imposed.
- **Eligibility Restriction:** The student is deemed "not in good standing" with the College for a specified period of time. Specific limitations or exceptions may be granted by the Dean of Students and terms of this conduct sanction may include, but are not limited to, the following:
- **Ineligibility to hold any office** in any student organization recognized by the College or hold an elected or appointed office at the College; or
- **Ineligibility to represent the College** to anyone outside the College community in any way including: participating in the study abroad program, attending conferences, or representing the College at an official function, event or intercollegiate competition as a player, manager or student coach, etc.

- **College Suspension**: Separation from the College for a specified minimum period of time, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension. The student is required to vacate the campus within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Dean of Students. During the suspension period, the student is banned from property, functions, events and activities without prior written approval from the Dean of Students. This sanction may be enforced with a trespass action as necessary.
- **College Expulsion**: Permanent separation from the College. The student is banned from property and the student's presence at any College-sponsored activity or event is prohibited. This action may be enforced with a trespass action as necessary.
- **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 a complaint 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.
- **Other Sanctions:** Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Dean of Students or designee.

The following sanctions may be imposed upon groups or organizations found to have violated the Code of Student Conduct:

1) One or more of the sanctions listed above and/or
2) Deactivation, de-recognition, loss of all privileges (including status as a College registered group/organization), for a specified period of time.

B. Employee Sanctions/Responsive/Corrective Actions

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

- Verbal or Written Warning
- Performance Improvement Plan/Management Process
- Enhanced Supervision, Observation, or Review
- Required Counseling
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Reassignment
- Delay of Tenure Track Progress
- Assignment to New Supervisor
- Restriction of Stipends, Research, and/or Professional Development Resources
- Suspension with Pay
- Suspension without Pay
- Termination
- Other Actions: In addition to or in place of the above sanctions/responsive actions, the Recipient

may assign any other responsive actions as deemed appropriate.

10. Withdrawal or Resignation While Charges are Pending

A. Students

The College does not typically permit a student to withdraw if that student has an allegation pending for violation of the Equal Opportunity, Harassment, Discrimination and Sexual Misconduct Policy. The College may place a hold, bar access to an official transcript, and/or prohibit graduation as necessary to permit the Resolution Process to be completed.

B. Employees

Should an employee resign with unresolved allegations pending, the records of the Title IX Coordinator will reflect that status, and any Defiance College responses to future inquiries regarding employment references for that individual will include the former employee's unresolved status and whether the employee is eligible for rehire.

11. Appeals

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator within 3 business days of the delivery of the written finding of the Title IX Coordinator or Decision-maker.

An Appeal Decision-Maker chosen from the Pool will be designated by the Title IX Coordinator from those who have not been involved in the process previously. Any party may appeal, but appeals are limited to the following grounds:

1) A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g., substantiated bias, material deviation from established procedures).
2) To consider new evidence, unknown or unavailable during the investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included in the appeal.
3) The sanctions imposed fall outside the range of sanctions the Defiance College has designated for the violations and the cumulative disciplinary record of the Respondent.

When any party requests an appeal, the Title IX Coordinator will share the appeal request with all other parties or other appropriate persons such as the Investigator(s), who may file a response within three (3) business days. Another party may also 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 3 business days. These responses or appeal requests will be shared with each party. The Appeal Decision Maker will review the appeal request(s) within 5 business days of completing the pre-appeal exchange of materials. If grounds are not sufficient for an appeal, or the appeal is not timely, the Appeal Chair dismisses the appeal.

When the Appeal Chair finds that at least one of the grounds is met by at least one party, additional principles governing the review of appeals include the following:

- Decisions by the Appeal Chair/Panel are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is compelling justification to do so.

- Appeals are not intended to be full re-hearings (de novo) of the allegation(s). 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 the Appeal Chair/Panel to substitute their judgment for that of the original Investigator(s) or Title IX Coordinator/Decision-maker merely because they disagree with the finding and/or sanction(s).
- Appeals granted based on new evidence should normally be remanded to the Investigator(s) for reconsideration. Other appeals should be remanded at the discretion of the Appeal Chair/Panel.
- Sanctions imposed as the result of the Administrative Resolution are implemented immediately unless the Title IX Coordinator 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.
- All parties will be informed in writing within 5 business days of the outcome of the appeal without significant time delay between notifications, and in accordance with the standards for Notice of Outcome as defined above.
- Once an appeal is decided, the outcome is final; further appeals are not permitted, even if a decision or sanction is changed on remand
- In rare cases when a procedural error cannot be cured by the original Investigator(s) and/or Title IX Coordinator/Decision-maker (as in cases of bias), the Appeal Chair/Panel may recommend a new investigation and/or Administrative Resolution process, including a new Decision-Maker.
- The results of a new Administrative Resolution process can be appealed once, on any of the three applicable grounds for appeals.
- In cases in which the appeal results in Respondent's reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable.

12. Long-Term Remedies/Actions

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented, the Title IX Coordinator may implement long-term remedies or actions with respect to the parties and/or the campus community to stop the harassment, discrimination, and/or retaliation; remedy its effects; and prevent its reoccurrence.

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

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

At the discretion of the Title IX Coordinator, long-term remedies may also be provided to the Complainant even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedial requirements owed by the Defiance College to the Respondent.

13. Failure to Complete Sanctions/Comply with Interim and Long-Term Remedies/Responsive Actions
All Respondents are expected to comply with conduct sanctions, responsive actions, and corrective actions within the timeframe specified by the Title IX Coordinator.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s) and responsive/corrective action(s), including suspension, expulsion, and/or termination from the College and may be noted on a student's official transcript. Supervisors are expected to enforce completion of sanctions/responsive actions for their employees.

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

14. Recordkeeping
In implementing this Policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Coordinator in the Title IX Complaint database indefinitely, or as required by state or federal law or institutional policy.

This Policy and Procedure was implemented on October 24, 2024.