

Title IX Grievance Procedures
Phillips Community College of The College of Arkansas

Section 1: Policy Statement

The College does not discriminate on the basis of sex and prohibits Sex Discrimination in any education program or activity that it operates, as required by Title IX and 34 C.F.R. Part 106,¹ including in admission and employment.² Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, Pregnancy or Related Condition, sexual orientation, and gender identity.

Section 2: Jurisdiction and Scope

The College will respond promptly and effectively when it has knowledge of conduct that reasonably may constitute Sex Discrimination in its education program or activity.³

The College's grievance procedures (procedures) apply to all complaints of Sex Discrimination occurring under The College's education program or activity in the United States. Conduct that occurs under a University's education program or activity includes (but is not limited to) conduct that occurs in a building owned or controlled by a student organization that is officially recognized by The College, in addition to conduct that is subject to The College's disciplinary authority. The College will address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside The College's education program or activity or outside the United States.⁴

Complaints of Sex Discrimination including Sex-Based Harassment and conduct that reasonably may constitute Retaliation as defined herein (and in accordance with Title IX) will be handled through these procedures.⁵ All other complaints of discrimination or misconduct that do not fall within the jurisdiction of Title IX may be made through other University procedures.

Section 3: Definitions

¹ Throughout these procedures, references to Title IX refer to both 20 U.S.C. § 1681 and the statute's implementing regulations, 34 C.F.R. Part 106.

² 34 C.F.R. § 106.8(b)

³ 34 C.F.R. § 106.44(a)

⁴ 34 C.F.R. § 106.11

⁵ 34 C.F.R. § 106.71

All of the terms of these procedures have their common dictionary meaning unless otherwise specified.

- A. **“Administrative File”** means all documents and evidence in The College’s possession or control that is relevant to alleged Sex Discrimination and The College’s investigation into the alleged Sex Discrimination.⁶
1. The Administrative File does not include privileged documents, internal communications, or communications from non-parties that The College does not intend to introduce as evidence at a disciplinary proceeding.⁷
 2. The Administrative File includes, without limitation, the following:⁸
 - a. Exculpatory evidence;
 - b. Statements by a Complainant or Respondent;
 - c. Third-party witness statements;
 - d. Electronically stored information;
 - e. Written communications;
 - f. Social media posts;
 - g. Demonstrative evidence;
 - h. Documents submitted by any participant involved in a disciplinary proceeding; and

⁶ Ark. Code Ann. § 6-60-1404(b)(1)

⁷ Ark. Code Ann. § 6-60-1404(b)(3)

⁸ Ark. Code Ann. § 6-60-1404(b)(2)

- i. The College’s choice of a video recording, an audio recording, or a transcript of any Hearing held on the matter in an investigation of Sex-Based Harassment involving a Student-Complainant or Student-Respondent.
- B. **“Complainant”** means (1) a Student or employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination; or (2) a person other than a Student or employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination and who was participating or attempting to participate in The College’s education program or activity at the time of the alleged Sex Discrimination.⁹
- C. **“Complaint”** means an oral or written request to The College that objectively can be understood as a request for The College to investigate and make a determination about alleged discrimination pursuant to these procedures.¹⁰
- D. **“Confidential employee”** means (1) an employee of The College whose communications are privileged or confidential under federal or state law and is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; (2) an employee of The College whom The College has designated as confidential for the purposes of providing services to persons related to Sex Discrimination—but if the employee has a duty not associated with providing those services, the employee’s confidential status is only with respect to information received about Sex Discrimination in connection with providing those services; or (3) an employee of a postsecondary institution who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about Sex Discrimination—but the employee’s confidential status is limited to information received while conducting the study.¹¹

⁹ 34 C.F.R. § 106.2

¹⁰ Id.

¹¹ Id.

E. **“Consent”** in the context of an allegation of Sex-Based Harassment means a clear, knowing, and voluntary agreement to engage in a sexual activity. The concept of Consent is guided by the following principles:

1. Consent can be given by words or actions if those words or actions create mutually understandable and clear permission regarding willingness to engage in (and the conditions of) sexual activity.
2. If coercion, intimidation, threats, or physical force are used, there is no Consent.
3. If a person is mentally or physically incapacitated so that the person cannot understand the fact, nature, or extent of the sexual situation, there is no Consent.
 - a. Incapacitation can be due to alcohol or drugs or being asleep or unconscious. Incapacitation can also occur due to mental disability, involuntary physical restraint, or from the taking of rape drugs. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Brundage, etc. is prohibited, and administering one of these drugs to another person is a violation of University policy.
 - b. Use of alcohol or other drugs will never function as a defense to a violation of the Title IX Policy.
 - c. An individual violates the Title IX Policy if the individual initiates and engages in sexual activity with someone who is incapacitated, and (1) the individual knew the other person was incapacitated or (2) a sober reasonable person under similar circumstances as the person initiating the sexual activity would have known the other person was incapacitated.

4. There is also no Consent when there is force, expressed or implied, or use of duress or deception upon the victim. Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining Consent. Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes overt threats, implied threats, intimidation, and coercion that overcome resistance or produce Consent.
 5. Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get Consent from another. When someone makes clear that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
 6. Under Arkansas law, the age of Consent varies with the degrees of assault, the age of the actor, and the relationship of the actor to the victim. For specific information, refer to Arkansas statutes such as Ark. Code Ann. § 5-14-125.
 7. Consent to any one form of sexual activity cannot automatically imply Consent to any other form of sexual activity. In addition, previous relationships or prior consent cannot imply Consent to future sexual acts.
- F. **“Day”** means a calendar day, unless otherwise specified. A “business day” excludes weekends, holidays, and other days when the Campus is closed.
- G. **“Disciplinary Sanction”** means a consequence or action that is imposed on a Respondent following a determination, pursuant to these procedures, that the Respondent violated The College’s prohibition on Sex

Discrimination.¹² Disciplinary Sanctions are not designed to be punitive; rather, they are intended to be measures that hold the Respondent accountable for the Respondent's behavior and protect the Campus community. Disciplinary Sanctions can range from a verbal warning to expulsion or suspension or termination of employment.

- H. **“Hearing”** means the forum, in Sex-Based Harassment cases involving a Student-Complainant or Student-Respondent, in which the Respondent is given an opportunity to be heard, following adequate notice, and which results in a decision concerning responsibility and Disciplinary Sanctions.
- I. **“Hearing Officer”** means a single, impartial individual who conducts a Hearing and decides whether a Respondent is responsible for Sex Discrimination or Retaliation. A Hearing Officer may determine Disciplinary Sanctions against a Student-Respondent.
- J. **“Hearing Panel”** means an impartial body of at least three members convened for the purpose of conducting a Hearing and deciding whether a Respondent is responsible. A Hearing Panel may determine Disciplinary Sanctions against a Student-Respondent. A Hearing Panel's determination of responsibility shall be made by majority vote.
- K. **“Parties”** means the Complainant and Respondent. The Complainant and Respondent shall have similar rights regarding the right to be present and participate in a disciplinary proceeding, to be represented by an advisor (when provided for in these procedures), to access to the Administrative File, and the right to appeal (as set forth in these procedures).¹³
- L. **“Pregnancy or Related Condition”** means (a) pregnancy, childbirth, termination of pregnancy, or lactation; or (2) medical conditions related to

¹² Id.

¹³ Ark. Code Ann. § 6-60-1404(c)(1)(I)

pregnancy, childbirth, termination of pregnancy, or lactation; or (3) recovering from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.¹⁴

- M. **“Relevant”** means related to the allegations of Sex Discrimination that are subject to an investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged violation occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged violation occurred.¹⁵
- N. **“Remedies”** means measures provided, as appropriate, to a Complainant or any other person The College identifies has having had their equal access to The College’s program or activity limited or denied by Sex Discrimination. The measures are provided to restore or preserve that person’s access to The College’s education program or activity after The College determines that a violation occurred.¹⁶
- O. **“Respondent”** means a person who is alleged to have violated The College’s prohibition on Sex Discrimination.¹⁷ When a Complaint alleges that a University’s policy or practice discriminates on an unlawful basis, The College is not considered a Respondent.¹⁸
- P. **“Retaliation”** means intimidation, threats, coercion, or discrimination against any person by The College , a Student, or an employee or other person authorized by The College to provide aid, benefit, or service under The College ’s education program or activity, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or

¹⁴ 34 C.F.R. § 106.2

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ 34 C.F.R. § 106.45(a)(1)

Hearing under these procedures, including in an informal resolution process, in grievance procedures, and in any other steps taken by The College in response to an allegation of Sex Discrimination.

Nothing in this definition precludes The College from requiring an employee or other person authorized by The College to provide aid, benefit, or service under The College's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or Hearing under these procedures.¹⁹

Prohibited Retaliation includes (but is not limited to):²⁰

1. Initiating a disciplinary proceeding against a person for a violation that does not involve Sex Discrimination but arises out of the same facts and circumstances as a Complaint or information reported about possible Sex Discrimination, for the purpose of interfering with the exercise of any right or privilege secured by Title IX; or
2. Peer Retaliation.

Q. Sex Discrimination: Sex Discrimination involves treating someone (such as a student, applicant, or employee) unfavorably because of that person's sex.²¹ Discrimination of an individual can occur when the different treatment adversely affects the terms or conditions of the individual's employment or interferes with the individual's access to education or educational benefits.

1. Discrimination on the basis of sex includes on the basis of sex stereotypes, sex characteristics, Pregnancy or Related Conditions, sexual orientation, and gender identity.²²

¹⁹ 34 C.F.R. § 106.2

²⁰ 34 C.F.R. § 106.71(b)

²¹ [Sex-Based Discrimination | U.S. Equal Employment Opportunity Commission \(eeoc.gov\)](https://www.eeoc.gov)

²² 34 C.F.R. §§ 106.10

2. In the limited circumstances in which Title IX permits different treatment or separation on the basis of sex, The College must not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a person to more than *de minimis* harm, except as permitted by Title IX.²³

R. **“Sex-Based Harassment”** is a form of Sex Discrimination and means sexual harassment and other harassment on the basis of sex including sex stereotypes, sex characteristics, Pregnancy or Related Conditions, sexual orientation, and gender identity, that is:²⁴

1. *Quid pro quo harassment*: An employee, agent, or other person authorized by The College to provide an aid, benefit, or service under The College’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;
2. *Hostile environment harassment*: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from The College’s education program or activity. Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - a. The degree to which the conduct affected the Complainant’s ability to access The College’s education program or activity;
 - b. The type, frequency, and duration of the conduct;

²³ 34 C.F.R. 106.31 (referencing the exceptions pursuant to 20 U.S.C. § 1681(a)(1) through (9) and the corresponding regulations § 106.12 through § 106.16 and 20 U.S.C. § 1686 and its corresponding regulations § 106.32(b)(1) or § 106.41(b)).

²⁴ 34 C.F.R. §§ 106.2, 106.10

- c. The Parties' ages, roles within The College's education program or activity, previous interactions, and other factors about each Party that may be relevant to evaluating the effects of the conduct;
- d. The location of the conduct and the context in which the conduct occurred; and
- e. Other Sex-Based Harassment in The College's education program or activity.²⁵

3. *Specific Offenses:*²⁶

²⁵ 34 C.F.R. § 106.2

²⁶ Id.

- a. “Sexual assault” meaning an offense classified as a forcible sex offense²⁷ or nonforcible sex offense²⁸ under the Uniform Crime Reporting System of the Federal Bureau of Investigation;
- b. “Dating violence” meaning violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such relationship shall be based on the length of the relationship, the type of relationship, and the frequency of interactions between the persons involved in the relationship;

²⁷ The Federal Bureau of Investigation’s National Incident-Based Reporting System (NIBRS) defines a **forcible sex offense** as:

- A. **Forcible rape**: the penetration, no matter how slight, of the vagina or anus with any part of the body or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- B. **Forcible sodomy**: Oral or sexual intercourse with another person, forcibly and/or against that person’s will or not forcibly or against that person’s will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
- C. **Sexual assault with an object**: Using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will or not forcibly or against that person’s will in instances where the victim is incapable of giving consent because of his/her youth or because his/her temporary or permanent or physical incapacity.
- D. **Forcible fondling**: The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s will or not forcibly or against that person’s will in instances where the victim is incapable of giving consent because of his/her youth or because his/her temporary or permanent or physical incapacity.

²⁸ The NIBRS defines **nonforcible sex offenses** as unlawful, nonforcible sexual intercourse. It also includes **incest** (which is nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law) and **statutory rape** (which is nonforcible sexual intercourse with a person who is under the statutory age of consent). Under Arkansas law, the age of consent varies with the degrees of assault, the age of the actor, and the relationship of the actor to the other Party. For specific information, refer to Arkansas statutes such as Ark. Code Ann. § 5-14-125

- c. “Domestic violence” meaning felony or misdemeanor crimes of violence committed by a person who:
 - i. Is a current or former spouse or intimate partner of the victim under the laws of Arkansas,²⁹ or a person similarly situated to a spouse of the victim;
 - ii. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - iii. Shares a child in common with the victim; or
 - iv. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.
- d. “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for the person’s safety or the safety of others or (2) suffer substantial emotional distress.³⁰
- S. **“Student”** means a person who has gained admission to The College.³¹
- T. **“Student with a Disability”** means a Student who is an individual with a disability as defined in the Rehabilitation Act of 1973.³²

²⁹ Under the Arkansas law on domestic abuse, “family or household members” means spouse; former spouse; parent; child; person related to another family or household member by blood; person who cohabits with another family or household member or cohabitated in the past with another family or household member; and a person who shares one or more children in common with another person. Ark. Code Ann. § 9-6-102(4).

³⁰ 34 C.F.R. §§ 106.2

³¹ 34 C.F.R. § 106.2

³² Id.

- U. **“Supportive Measures”** means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent and as further defined herein in Section 4.A.

- V. **“Title IX Coordinator”** means a University or Campus employee who is responsible for coordinating The College’s efforts to comply with its responsibilities under Title IX. The Title IX Coordinator may assign one or more designees to carry out some responsibilities. The use of the term Title IX Coordinator herein may include the Title IX Coordinator’s designees.

Section 4: Administrative Actions by the Title IX Coordinator

A. Supportive Measures³³

1. The College may, at any time, provide one or more individualized services to a Party that is non-disciplinary, nonpunitive, reasonably available, and without fee or charge to the Party.

2. An individualized service offered to a Party shall be designed to restore or preserve equal access to The College’s education program or activity or to provide support during The College’s procedures, including the informal resolution process, without unreasonably burdening the other Party.³⁴

3. An individualized service offered to a Party must be designed to protect the safety of all involved Parties or The College’s educational environment, and may include without limitation:³⁵

³³ Ark. Code Ann. § 6-60-1405(a)(1); 34 C.F.R. § 106.2. The Arkansas statute uses the term “interim measures,” whereas the federal regulation uses the term “Supportive Measures” to describe the same concept.

³⁴ Ark. Code Ann. § 6-60-1405(a)(2)(A)

³⁵ Ark. Code Ann. § 6-60-1405(a)(2)(B); 34 C.F.R. §§ 106.44(g)

- a. Counseling;
 - b. Extension of deadlines or other course-related adjustments;
 - c. Campus escort services;
 - d. Mutual restrictions on contact between the Parties;
 - e. Modification of class schedules or housing locations;
 - f. Increased security and monitoring of areas of The College's Campus;
 - g. Leaves of absence;
 - h. Changes in class, work, housing, or extracurricular or any other activity;
 - i. Training and education programs related to Sex-Based Harassment; and
 - j. Other similar services.
4. Supportive Measures that burden a Respondent may be imposed only during the pendency of the disciplinary proceeding or the informal resolution process under these procedures, and they must be terminated at the conclusion of those proceedings or, when applicable, at the conclusion of the informal resolution process. These measures must be no more restrictive of the Respondent than is necessary to restore or preserve the Complainant's access to The

College's education program or activity. The College shall not impose such measures for punitive or disciplinary reasons.³⁶

5. For Supportive Measures other than those that burden a Respondent, The College may, as appropriate, modify or terminate Supportive Measures at the conclusion of the disciplinary proceeding or at the conclusion of the informal resolution process, or The College may continue them beyond that point.³⁷
6. A Complainant or Respondent affected by a decision to provide, deny, modify, or terminate Supportive Measures may seek modification or reversal of the decision by appealing the matter to the Title IX Coordinator within **3 business days** if a designee of the Title IX Coordinator made the initial decision. If the Title IX Coordinator made the initial decision, the appeal is to a trained designee of the Chancellor. The designated persons are the Vice Chancellor for Student Services in cases in which the respondent is a student of the institution; the Vice Chancellor for Academic Affairs in cases in which the respondent is a faculty member; and the Director of Human Resources in all other cases. The appeal should be made within **3 business days** of the Title IX Coordinator's decision. If the Supportive Measure burdens the Respondent, the initial opportunity to seek modification or reversal of The College's decision must be provided before the measure is imposed or, if necessary under the circumstances, as soon as possible after the measure has taken effect. The Complainant and Respondent affected by a Supportive Measure may also seek additional modification or termination of such Supportive Measure if the circumstances changed materially.³⁸
7. The College will not disclose information about any Supportive Measure to persons other than the Complainant or Respondent

³⁶ 34 C.F.R. § 106.44(g)(2)

³⁷ 34 C.F.R. § 106.44(g)(3)

³⁸ 34 C.F.R. § 106.44(g)(4)

unless necessary to provide the Supportive Measure or unless allowed for under Section 9.A. The College may inform a Party of Supportive Measures provided to or imposed on another Party only if necessary to restore or preserve that Party's access to the education program or activity.³⁹

8. If the Complainant or Respondent is a Student with a disability, the Title IX Coordinator may consult, as appropriate, with the individual or office that The College has designated to provide support to Students with disabilities to determine how to comply with federal law in the implementation of Supportive Measures.⁴⁰
9. For allegations of Sex Discrimination other than Sex-Based Harassment or Retaliation, The College's provision of Supportive Measures does not require The College, its employees, or any other person authorized to provide aid, benefit, or service on The College's behalf to alter (i.e., to stop) the alleged discriminatory conduct for the purpose of providing a Supportive Measure.⁴¹

B. Emergency Removal

1. Student-Respondent:

- a. The College may remove a Student-Respondent from its educational program or activity on an emergency basis if The College:⁴²
 1. Undertakes an individualized safety and risk analysis;

³⁹ 34 C.F.R. § 106.44(g)(5)

⁴⁰ 34 C.F.R. § 106.44(g)(6)

⁴¹ 34 C.F.R. §§ 106.44(g)

⁴² Ark. Code Ann. § 6-60-1405(b)(1); 34 C.F.R. § 106.44(h)

2. Determines that an immediate and serious threat to the health and safety of a Complainant, any students, employees or other individuals arising from the allegations of Sex Discrimination justifies removal of the Student-Respondent; and
 3. Provides the accused Student-Respondent with notice and an opportunity to challenge the decision immediately following the removal.
- b. Within 24 hours of the emergency removal, The College shall provide written notice to the Student-Respondent that explains The College's reasons for removing the Student-Respondent on an emergency basis.⁴³
 - c. Within **3 business days** of the written notice, unless otherwise waived by the removed Student-Respondent, The College shall convene an interim hearing before Vice Chancellor of Student Services or trained designee⁴⁴ to determine whether there is substantial evidence that the removed Student-Respondent poses an immediate and serious threat to the health and safety of any Student or other individual and that the emergency removal of the Student-Respondent is appropriate to mitigate the risk.⁴⁵
 - d. At the interim hearing, the removed Student-Respondent and the Complainant may be represented by an attorney or a non-

⁴³ Ark. Code Ann. § 6-60-1405(b)(2)(A)

⁴⁴ If the Title IX Coordinator and the Vice Chancellor of Student Services is the same person, the interim hearing should occur before a trained designee who was not involved in the initial emergency-removal decision.

⁴⁵ Ark. Code Ann. § 6-60-1405(b)(2)(B)(i)

attorney advocate who may fully participate to the same extent as in a Hearing to determine responsibility.⁴⁶

- e. A Student-Respondent's waiver of the right to be represented by an attorney or a non-attorney advocate shall not constitute an admission of guilt or waiver of additional rights under these procedures.⁴⁷
 - f. The decision following the interim hearing is subject to appeal to the Vice Chancellor for Student Services within **3 business days** after the decision. The decision may remain in effect during the pendency of the appeal.
 - g. The emergency-removal decision shall remain in effect until a final decision has been made on the pending Complaint or until the Title IX Coordinator determines that the reason for imposing the emergency-removal decision no longer exists. The decision shall be immediately withdrawn if the Respondent is found not responsible for the alleged violation in a final, unappealable decision.
2. Employee-Respondent: Nothing in these procedures precludes The College from placing an Employee-Respondent on administrative leave from employment responsibilities during the pendency of all or part of The College's procedures.⁴⁸

C. Title IX Coordinator's Initial Screening Upon Notification of Conduct and Dismissal of a Complaint

1. **Initial Screening Upon Notification of Conduct:** Upon being notified of conduct that may constitute Sex Discrimination, the Title

⁴⁶ Ark. Code Ann. § 6-60-1405(b)(2)(B)(ii)(a)

⁴⁷ Ark. Code Ann. § 6-60-1405(b)(2)(B)(ii)(b)

⁴⁸ 34 C.F.R. § 106.44(i)

IX Coordinator shall conduct an initial screening of the matter. Based on the initial screening, the Title IX Coordinator may conclude the matter without taking any further action under these procedures if the Title IX Coordinator determines that the conduct as alleged could not constitute Sex Discrimination.⁴⁹ The Title IX Coordinator shall make this initial determination within **10 business days** upon being notified of conduct that may constitute Sex Discrimination.

2. **Dismissal of a Complaint:** After receiving a Complaint, the Title IX Coordinator shall promptly decide whether the Complaint should be dismissed. The Title IX Coordinator shall make this initial determination within **10 business days** after the Complaint is filed or as soon as practicable thereafter.⁵⁰

- a. The Title IX Coordinator may dismiss a Complaint if:⁵¹
 - i. The College is unable to identify the Respondent after taking reasonable steps to do so;
 - ii. The Respondent is not participating in The College’s education program or activity and is not employed by The College;
 - iii. The Complainant voluntarily withdraws (the voluntary withdrawal must be in writing when involving Sex-Based Harassment of a Student-Complainant) any or all of the allegations in the Complaint, and the Title IX Coordinator determines that, without the Complainant’s withdrawn allegations, the conduct that

⁴⁹ 34 C.F.R. § 106.44(f)(2)

⁵⁰ 34 C.F.R. § 106.45(b)(4) (requiring “reasonably prompt time frames for the major stages of the grievance procedure”)

⁵¹ 34 C.F.R. § 106.45(d)

remains alleged in the Complaint, if any, would not constitute a violation of the Title IX Policy even if proven; or ⁵²

iv. The Title IX Coordinator determines the conduct alleged in the Complaint, even if proven, would not constitute a violation of the Title IX Policy; provided, however, that before dismissing the Complaint, the Title IX Coordinator shall make reasonable efforts to clarify the allegations with the Complainant.⁵³

b. If the Title IX Coordinator dismisses the Complaint, the investigation shall end immediately. The Title IX Coordinator shall promptly communicate the basis for the dismissal to the Parties simultaneously (the dismissal must be in writing when involving Sex-Based Harassment of a Student-Complainant or Student-Respondent).⁵⁴ If the dismissal occurs after the Respondent has been notified of the allegations, then the Title IX Coordinator must also notify the Respondent of the dismissal and the basis for the dismissal promptly following a notification to the Complainant, or simultaneously if notification is in writing.⁵⁵

c. The Title IX Coordinator shall notify the Complainant that a dismissal may be appealed on the bases set out in Section 6.B.6.e; but, if the dismissal occurs after the Respondent has been notified, the Title IX Coordinator shall notify the Parties that a dismissal may be appealed and the available grounds for appeal.⁵⁶ Each Party may appeal the matter to a trained

⁵² 34 C.F.R. §§ 106.45(d)(1), 106.46(d)(2)

⁵³ 34 C.F.R. § 106.45(d)(1)

⁵⁴ 34 C.F.R. §§ 106.45(d)(2), 106.46(d)(1)

⁵⁵ 34 C.F.R. § 106.45(d)(2)

⁵⁶ 34 C.F.R. § 106.45(d)(3)

designee of the Chancellor within **5 business days** after the Title IX Coordinator's dismissal decision. At this institution, the designated persons are the Vice Chancellor for Student Services in cases in which the respondent is a student of the institution; the Vice Chancellor for Academic Affairs in cases in which the respondent is a full-time faculty member; and the Director of Human Resources in all other cases. During the appeal of a dismissal decision:

- i. Each Party shall be notified when an appeal (including notice of allegations consistent with this section if notice was not previously provided to the Respondent) is filed, and the procedures shall be implemented equally for the Parties;
- ii. The College shall ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the Complaint;
- iii. The College shall ensure that the decisionmaker for the appeal has been appropriately trained;
- iv. The College shall provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome as follows:
 - a. The appealing Party's submission shall consist of a concise written statement as to why the dismissal decision should be reversed; and
 - b. The other Party may submit a concise counterstatement within **5 business days** of receiving the appealing Party's submission; and

v. The College shall simultaneously notify the Parties of the result of the appeal and the rationale for the result.

d. Notwithstanding a decision to dismiss the Complaint, The College shall provide Supportive Measures to the Complainant and Respondent as appropriate.⁵⁷

e. The Title IX Coordinator shall take other appropriate prompt and effective steps to ensure that Sex Discrimination does not continue or reoccur within The College's education program or activity.⁵⁸

D. Consolidation of Complaints. The Title IX Coordinator may consolidate Complaints against more than one Respondents, or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations arise out of the same facts or circumstances.⁵⁹ If one of the Complaints (including a Retaliation complaint) to be consolidated is a Complaint of Sex-Based Harassment involving a Student-Complainant or Student-Respondent, the procedures for investigating and resolving the consolidated Complaint will be those set forth in Section 6.C.⁶⁰

E. Informal Resolution

1. At any time prior to determining whether a violation of the Title IX Policy occurred, The College may offer to a Complainant and Respondent an informal resolution process, unless such a process would conflict with federal, state, or local law.⁶¹

⁵⁷ 34 C.F.R. 106.45(d)(4)(i)

⁵⁸ 34 C.F.R. 106.45(d)(4)(iii)

⁵⁹ 34 C.F.R. § 106.45(e)

⁶⁰ 34 C.F.R. § 106.71

⁶¹ 34 C.F.R. § 106.44(k)(1)

- a. The Title IX Coordinator has discretion to determine whether it is appropriate to offer an informal resolution process and may decline to offer informal resolution despite one or more of the Parties' wishes.⁶²
 - b. Circumstances when the Title IX Coordinator may decline to allow informal resolution include but are not limited to when The College determines that the alleged conduct would present a risk of future harm to others.⁶³
2. The College will not require or pressure the Parties to participate in an informal resolution process. The Title IX Coordinator must obtain the Parties' voluntary consent to the informal resolution process and must not require waiver of the right to an investigation and adjudication of a Complaint as a condition of enrollment or continuing enrollment, employment or continuing employment, or exercise of any other right under these procedures.⁶⁴
3. Before initiation of an informal resolution process, the Title IX Coordinator must provide the Parties written notice⁶⁵ that explains:⁶⁶
 - a. The allegations;
 - b. The requirements of the informal resolution process;
 - c. That, prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and to

⁶² 34 C.F.R. § 106.44(k)(1)(i)

⁶³ 34 C.F.R. § 106.44(k)(1)(ii)

⁶⁴ 34 C.F.R. § 106.44(k)(2)

⁶⁵ 34 C.F.R. § 106.46(j)

⁶⁶ 34 C.F.R. § 106.44(k)(3)

initiate or resume these procedures including a disciplinary proceeding;

- d. That the Parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the Parties from initiating or resuming these procedures including a disciplinary proceeding arising from the same allegations;
- e. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties, where such potential terms include (but are not limited to):⁶⁷
 - i. Restrictions on contact; and
 - ii. Restrictions on the Respondent's participation in one or more of The College's programs or activities or attendance of specific events, including restrictions The College could have imposed as remedies or Disciplinary Sanctions had The College determined that a violation of the Title IX Policy occurred;
- f. Which records will be maintained and whether and how The College could disclose such information in these procedures including the disciplinary proceeding;
- g. That if The College initiates or resumes these procedures, The College or a Party must not access, consider, disclose, or otherwise use information, including records obtained solely through an informal resolution process as part of the

⁶⁷ 34 C.F.R. § 106.44(k)(5)

investigation or determination of the outcome of the Complaint; and

- h. That, when applicable, and if The College resumes these procedures including a disciplinary proceeding, the informal resolution facilitator could serve as a witness for purposes other than providing information obtained solely through the informal resolution process.
4. The facilitator for the informal resolution process must not be the same person as the investigator or the decisionmaker under these procedures. Any person designated by The College to facilitate an informal resolution process must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant and Respondent.⁶⁸
5. In order to encourage an open exchange of views and maximize the chances of agreement, mediation sessions may not be recorded, unless the Parties agree to a different arrangement.
6. Any informal resolution shall be in writing and shall represent the final resolution of the case, unless one of the Parties fails to adhere to the terms of the agreement.
7. If the Parties do not agree to an informal resolution, the process is unsuccessful, or informal resolution is not appropriate due to the nature of the Complaint, then these procedures including the disciplinary proceeding will commence or resume.
8. If the College provides an informal resolution process, the Title IX Coordinator should take other appropriate steps to ensure the Sex

⁶⁸ 34 C.F.R. § 106.44(k)(4)

Discrimination does not continue or reoccur within The College education program or activity.⁶⁹

Section 5: Initial Report / Intake Process

A. Initial Meeting with Complainant

Upon being notified of conduct that reasonably may constitute a violation of the Title IX Policy, the Title IX Coordinator will contact the Complainant to schedule an initial meeting to, as applicable:

1. Provide a copy of these procedures;
2. Explain avenues for resolution, including the informal resolution process and the disciplinary proceeding;
3. Explain the Complaint process and provide a copy of the Sexual Harassment Complaint Form on which the Complainant may disclose information, provide details regarding the allegation, including the name of the Respondent and the date, location, and general nature of the alleged violation;
4. Discuss confidentiality standards and concerns;
5. Refer to law enforcement, counseling, medical, academic or other resources, as appropriate; and
6. Discuss, as appropriate, possible Supportive Measures, which are available with or without a Complaint.

If the Complainant requests that no further action be taken and/or that no Complaint be pursued, the Title IX Coordinator will inform the Complainant that Retaliation is prohibited and that honoring the Complainant's request may limit The College's ability to fully respond to the alleged incident. In

⁶⁹ 34 C.F.R. § 106.44(k)

the event the Complainant stands firm on the request that no further action be taken, the Title IX Coordinator will evaluate whether to file a Complaint without the Complainant's participation. To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors:

1. The Complainant's request not to proceed with initiation of the Complaint;
2. The Complainant's reasonable safety concerns regarding initiation of the Complaint;
3. The risk that additional acts of Sex Discrimination would occur if a Complaint is not initiated;
4. The severity of the alleged Sex Discrimination, including whether the discrimination, if established, would require the removal of a Respondent from Campus or imposition of another Disciplinary Sanction to end the discrimination and prevent its reoccurrence;
5. The age and relationship of the Parties, including whether the Respondent is an employee of The College;
6. The scope of alleged Sex Discrimination, including information suggesting a pattern, ongoing Sex Discrimination, or Sex Discrimination alleged to have impacted multiple individuals;
7. The availability of evidence to assist a decisionmaker in determining whether Sex Discrimination occurred; and
8. Whether the College could end the alleged Sex Discrimination and prevent its reoccurrence without initiating its disciplinary proceeding under these procedures.

If, after considering these factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the

health or safety of the Complainant or other person, or that the conduct as alleged prevents The College from ensuring equal access on the basis of sex in its education program or activity, the Title IX Coordinator may initiate the Complaint.⁷⁰

If the Complainant is unknown, the Title IX Coordinator will notify the individual who reported the conduct of these procedures and the informal resolution process.⁷¹

C. Complaint Process

The following persons have the right to make a Complaint of Sex Discrimination— including a Complaint of Sex-Based Harassment— requesting that The College investigate and make a determination about alleged discrimination under these procedures:⁷²

1. A Complainant;
2. A person who has a right to make a Complaint on behalf of a Complainant, such as an authorized legal representative; or
3. The Title IX Coordinator.

In addition to the persons listed above, the following persons have the right to make a Complaint of Sex Discrimination other than Sex-Based Harassment:

1. Any Student or employee; or
2. A third party participating or attempting to participate in The College's education program or activity when the alleged violation occurred.

⁷⁰ 34 C.F.R. § 106.44(f)

⁷¹ 34 C.F.R. § 106.44(f)(1)

⁷² 34 C.F.R. § 106.45(a)(2)

A Complaint can be an oral or a written request to The College that objectively can be understood as a request for The College to investigate and make a determination about alleged discrimination under these procedures. Attached hereto as **Appendix B** is a Complaint Form that a Complainant may utilize. Complaints submitted orally or submitted by the Title IX Coordinator shall be memorialized in writing at the time of submission or as soon as practicable thereafter.

The Complaint should be submitted as soon as practicable. Unreasonable filing delays could result in the dulling of memories and a loss of relevant evidence and witness testimony. Delays in filing shall not, however, affect the Complainant's eligibility for Supportive Measures from The College.

Because the College is bound by its obligation to provide a fundamentally fair process, anonymous Complaints may be filed, but anonymity may limit The College's ability to respond and may preclude disciplinary action.

Section 6: Disciplinary Proceedings

Upon receipt of a Complaint that objectively can be understood as a request for The College to investigate and make a determination about alleged discrimination under the Title IX Policy, the Title IX Coordinator will initiate the applicable disciplinary proceeding.

The disciplinary proceeding in Section 6.C. applies to Complaints of Sex-Based Harassment that involve a Student-Complainant or Student-Respondent. The disciplinary proceeding in Section 6.B. applies to all other Complaints.

A. General Rules Applicable to All Disciplinary Proceedings

1. **Equitable Treatment.** The College shall treat the Complainant and Respondent equitably.⁷³
2. **Notice.** A Party whose participation is invited or expected shall receive written notice of the date, time, location, participants, and purpose of all meetings, investigative interviews, or Hearings with sufficient time for the Party to prepare to participate.⁷⁴
3. **Access to Administrative File**
 - a. The College shall maintain an Administrative File as defined herein.⁷⁵
 - b. The Parties may have reasonable continuing access to the Administrative File and the ability to review all documents and evidence in the Administrative File⁷⁶ by contacting the Title IX Coordinator to schedule a reasonable date and time for the inspection.
 - c. Individual portions of the Administrative File shall be redacted if confidentiality of the evidence is required by law.⁷⁷
4. **Presumption of Innocence.** Respondents are presumed innocent. They shall not be deemed guilty of Sex Discrimination until the

⁷³ 34 C.F.R. §§ 106.44(f), 106.45(b)(1)

⁷⁴ 34 C.F.R. § 106.46(e)(1)

⁷⁵ Ark. Code Ann. § 6-60-1404(b)(1); 34 C.F.R. § 106.46(e)(6)(i)-(ii)

⁷⁶ Ark Code Ann. § 6-60-1404(c)(1)(G). The statute requires “reasonable continuing access” and the “ability to review all evidence or documents in the administrative file beginning at least seven (7) business days before a disciplinary Hearing, or sooner if otherwise specified by federal law.” Neither Title IX nor FERPA contain a provision that would limit a Student’s access to the seven-day period prior to a Hearing with regard to his or her own educational records.

⁷⁷ Ark. Code Ann. § 6-60-1404(c)(1)(G); 34 C.F.R. § 106.45(f) (addressing relevant but impermissible evidence)

conclusion of a disciplinary proceeding during which The College has established every element of an alleged violation by a Respondent.⁷⁸

5. **Consideration of Evidence.** The College shall make good-faith efforts to include relevant evidence and exclude evidence that is neither relevant nor probative.⁷⁹ The College will not, however, follow formal rules of evidence or other rules of court.⁸⁰ An objective evaluation of the evidence must include both inculpatory and exculpatory evidence, and credibility determinations must not be based on a person's status as a Complainant, Respondent, or witness.⁸¹ However, all evidence (including relevant evidence) of the following types will be excluded, and questions seeking that evidence will be disallowed as impermissible (i.e., not accessed, considered, disclosed, or otherwise used):⁸²
 - a. Evidence that is protected under a privilege as recognized by federal or state law, unless the person holding such a privilege has waived the privilege voluntarily in a manner permitted in Arkansas;
 - b. A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless The College obtains the Party's voluntary, written consent for use in the proceeding;
 - c. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other

⁷⁸ Ark. Code Ann. § 6-60-1404(c)(1)(C); 34 C.F.R. § 106.45(b)(3)

⁷⁹ Ark. Code Ann. § 6-60-1403(2)(B)(i)

⁸⁰ Id.

⁸¹ 34 C.F.R. § 106.45(b)(6); 34 C.F.R. § 106.45(f)(2)

⁸² 34 C.F.R. § 106.45(b)(7)

than the Respondent committed the alleged conduct or is offered to prove consent with evidence concerning specific incidents of the Complainant's prior sexual conduct with the Respondent. The fact of prior consensual sexual conduct between the Complainant and Respondent does not demonstrate or imply the Complainant's consent to the alleged Sex-Based Harassment or preclude determination that Sex-Based Harassment occurred.

6. **Standard and Burden of Proof.** The burden is on The College—not on the Parties—to conduct an investigation that gathers sufficient evidence to determine whether a violation of the Title IX Policy occurred.⁸³ The decisionmaker shall not find the Respondent responsible unless the preponderance of the evidence establishes each element of the alleged violation.⁸⁴ The decisionmaker shall evaluate relevant evidence for its persuasiveness; if the decisionmaker is not persuaded under the foregoing standard by the evidence that a violation occurred, whatever the quantity the evidence is, the decisionmaker should not determine that a violation occurred.⁸⁵
7. **Nonappearance.** The College will not make any negative inferences against a Party solely for the Party's failure to participate in these procedures. However, a Party's failure to participate does not preclude The College from conducting the disciplinary proceeding in that Party's absence.
8. **Refusal to Respond to Questions:** The decisionmaker must not draw an inference about whether Sex Discrimination occurred based solely on a Party's or witness's refusal to respond to such questions.⁸⁶

⁸³ 34 C.F.R. § 106.45(f)(1)

⁸⁴ 34 C.F.R. § 106.45(h)

⁸⁵ *Id.*

⁸⁶ 34 C.F.R. § 106.46(f)(4)

A decisionmaker may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed relevant and not impermissible.

9. **No Retaliation.** A Party shall not be subjected to Retaliation for exercising that Party's rights under The College's Title IX Policy and these procedures.
10. **Obligation to Provide Truthful Information.** Parties and witnesses shall, to the best of their abilities, provide truthful and accurate information in their written submissions and during investigatory interviews and Hearings.
11. **Weapons.** Individuals may not carry a concealed handgun into any grievance and disciplinary procedures, provided that they have been notified at least 24 hours prior to the Hearing, the meeting will last no longer than 9 hours, and the meeting space has been marked with appropriate signage.⁸⁷
12. **No Conflicts or Bias.** The Title IX Coordinator, Hearing Officer, or Hearing Panel (when applicable) shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.⁸⁸ A Party may raise a concern regarding a potential conflict or bias with a trained designee of the Chancellor. At this institution, the designated persons are the Vice Chancellor for Student Services in cases in which the respondent is a student of the institution; the Vice Chancellor for Academic Affairs in cases in which the respondent is a full-time faculty member; and the Director of Human Resources in all other cases.

⁸⁷ Ark. Code Ann. § 5-73-322(e)

⁸⁸ 34 C.F.R. § 106.45(b)(2)

13. **Extensions of Time.** The Parties, or the Title Office, may seek reasonable extensions of timeframes on a case-by-cases basis for good cause. If an extension is granted, written notice will be provided to the Parties that includes the reasons for the delay.⁸⁹ The Title IX Coordinator will evaluate reasonable extension requests from the Parties.
14. **Role of University Counsel.** At all stages of the proceedings, a Title IX Coordinator, Hearing Officer, member of a Hearing Panel, or other administrators may seek advice from The College’s Office of General Counsel on questions of law, policy, and procedure. An attorney from the General Counsel’s Office may attend proceedings for the purpose of giving such advice.
15. **Investigation by Law Enforcement:** Nothing in these procedures should be construed as restricting the ability of Campus law enforcement to investigate a possible criminal violation.⁹⁰ If a law enforcement investigation has been initiated, The College will take reasonable measures to avoid undue interference with the law enforcement investigation. In most cases, The College’s investigation and/or disciplinary proceeding under these procedures will not be halted due to the fact that a parallel law-enforcement investigation has commenced.
16. **Imposition of Disciplinary Sanctions:** The College may not impose discipline on the Respondent for Sex Discrimination prohibited by Title IX unless there is a determination, at the conclusion, of The College’s procedures that the Respondent engaged in prohibited Sex Discrimination.⁹¹

⁸⁹ 34 C.F.R. § 106.46(e)(5)

⁹⁰ Ark. Code Ann. 6-60-1404(c)(1)(E)(ii)

⁹¹ 34 C.F.R. § 106.45(h)(3)

B. Disciplinary Proceeding for the Prompt and Equitable Resolution of Complaints of Sex Discrimination, including Sex-Based Harassment, that do not involve a Student-Complainant or Student-Respondent.

1. Notice of Allegations and Initial Communications to the Parties

a. The College shall provide written notice to the Parties whose identities are known.⁹² This notice shall include:

i. The College 's procedures and any informal resolution process;

ii. Sufficient information, available at the time, to allow the Parties to respond to the allegations. Sufficient information includes:⁹³

a. The identity of the Parties involved in the incident(s);

b. The date(s) and location(s) of the alleged incident(s); and

c. The conduct allegedly constituting Sex Discrimination or Retaliation;⁹⁴

iii. A statement that the Party is entitled to receive access to the Administrative File;⁹⁵

⁹² 34 C.F.R. §§ 106.45(c), 106.44(f)

⁹³ 34 C.F.R. § 106.45(c)(1)(ii)

⁹⁴ Id.

⁹⁵ 34 C.F.R. § 106.45(f)(iv)

- iv. A statement that Retaliation is prohibited.⁹⁶
- b. If, in the course of an investigation, the Title IX Coordinator decides to investigate additional allegations about the Respondent's conduct toward the Complainant that are not included in the original notice or that are included in a Complaint that is consolidated as set forth in these procedures, the Title IX Coordinator must provide notice of the additional allegations of the Parties whose identities are known.⁹⁷
- c. The College may dismiss any Complaint of Sex Discrimination in accordance with Section 4.C.

2. Initial Meeting with Respondent

The Title IX Coordinator will promptly schedule an initial meeting with the Respondent after the written notice of the Complaint is sent as described above. During the initial meeting with the Respondent, the Title IX Coordinator will, as applicable:

- a. Provide a copy of these procedures (if not previously provided);
- b. Explain avenues for resolution including the informal resolution process, unless the Title IX Coordinator determines that informal resolution would be inappropriate under the circumstances;
- c. Explain the steps involved in an investigation and the decision making under these procedures;

⁹⁶ 34 C.F.R. § 106.45(f)(iii)

⁹⁷ 34 C.F.R. § 106.45(c)(2)

- d. Discuss confidentiality standards and concerns;
- e. Discuss non-Retaliation requirements;
- f. Inform of any Supportive Measures already determined and being provided to the Complainant that would directly affect the Respondent;
- g. Refer to law enforcement, counseling, medical, academic or other resources, as appropriate; and
- h. Discuss, as appropriate, possible Supportive Measures that can be provided to the Respondent.

3. Adequate, Reliable, and Impartial Investigation

- a. After the Title IX Coordinator provides the Parties with the information described above, the Title IX Coordinator shall promptly interview the Complainant and Respondent to discuss the allegations in the Complaint. At each interview, each party will be given an equal opportunity to:
 - i. Provide the Party's version of events, and
 - ii. Identify fact witnesses and present other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.⁹⁸
- b. In addition to meeting with the Parties, the Title IX Coordinator shall take other investigatory steps, as necessary. Such steps may include:

⁹⁸ 34 C.F.R. § 106.45(f)(2)

- i. Interviewing witnesses (including expert witnesses, if any) and summarizing such interviews in writing;
 - ii. Visiting, inspecting, and taking photographs of relevant sites;
 - iii. Collecting and preserving relevant evidence (potentially in coordination with law-enforcement agencies); and
 - iv. Obtaining any relevant medical records, provided that the subject of the records has voluntarily authorized the release of the records in writing.
- c. A Party is not permitted to attend interviews other than the Party's own interview.
 - d. The investigation shall ordinarily be completed within **60 Days** after the disciplinary proceeding is initiated or as soon as practicable thereafter.⁹⁹

4. Evaluation of Evidence

Upon completion of the investigation, the Title IX Coordinator shall complete the following:

- a. Review the evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance;

⁹⁹ 34 C.F.R. § 106.45(b)(4) (requiring “reasonably prompt time frames for the major stages of the grievance procedure”)

- b. At least **7 business days** before a written decision, the Title IX Coordinator shall remind the Parties of their right to review the Administrative File to the extent allowed by law.¹⁰⁰
- c. The Parties shall have an opportunity to respond to the evidence contained in the Administrative File **within 3 business days** of reviewing the Administrative File.¹⁰¹

5. Written Decision

- a. Within 30 Days after completion of the investigation, the Title IX Coordinator shall simultaneously distribute to the Parties a written decision of the result that contains the following:¹⁰²
 - i. Information about the Title IX Policy and procedures The College used to evaluate the allegations;
 - ii. The Title IX Coordinator’s determination of whether a violation occurred;
 - iii. The Title IX Coordinator’s rationale for the determination; and
 - iv. The College’s procedures to appeal the result of the disciplinary proceeding, if applicable.¹⁰³
- b. When the Title IX Coordinator finds that a violation occurred, the following will occur:

¹⁰⁰ Ark. Code Ann. § 6-60-1404(c)(1)(G)(i) (requiring an ability to “review” the Administrative File “beginning at least seven (7) business says before a disciplinary Hearing); 34 C.F.R. § 106.46(f)(4)

¹⁰¹ 34 C.F.R. § 106.46(f)

¹⁰² 34 C.F.R. § 106.45(h)(2)

¹⁰³ Ark. Code Ann. § 6-60-1404(c)(1)(I)(iii)(b)

- i. The Title IX Coordinator will inform the appropriate University officials of the outcome. The Title IX Coordinator will coordinate with appropriate University officials to determine Disciplinary Sanction(s) that may be imposed on the Respondent.
 - ii. The Title IX Coordinator will notify the Respondent and the Complainant of any Disciplinary Sanction(s) imposed.
 - iii. The Title IX Coordinator will determine any remedies that will be provided by The College to the Complainant and, to the extent appropriate, other Students identified by The College to be experiencing the effects of a violation.¹⁰⁴
 - iv. The Title IX Coordinator will take other prompt and effective steps to ensure that a violation does not continue or recur within The College 's education program or activity.¹⁰⁵
- c. The College shall not discipline a Party, witness, or others participating in the disciplinary proceeding for making a false statement or for engaging in consensual sexual conduct based solely on The College 's determination of whether Sex Discrimination occurred.¹⁰⁶
 - d. The determination regarding responsibility becomes final either on The College providing the Parties with the written determination of the result of the appeal, if an appeal is filed,

¹⁰⁴ 34 C.F.R. § 106.45(h)(3)

¹⁰⁵ Id.

¹⁰⁶ 34 C.F.R. § 106.45(h)(5)

or if an appeal is not filed, the date on which an appeal would no longer be considered timely as set forth below.¹⁰⁷

6. Appeals

- a. A Party may appeal a decision on whether a violation occurred by submitting a written statement to the Title IX Coordinator within **10 Days** of receiving the written decision.¹⁰⁸ An Appeal Form is set forth in **Appendix C**.
- b. The appeal shall be heard by a trained designee of the Chancellor. At this institution, the designated persons are the Vice Chancellor for Student Services in cases in which the respondent is a student of the institution; the Vice Chancellor for Academic Affairs in cases in which the respondent is a full-time faculty member; and the Director of Human Resources in all other cases.
- c. The appeal shall be decided based on the record and without deference to the decision of the Title IX Coordinator.
- d. A Party may only appeal based on one of the following grounds:¹⁰⁹
 - i. A procedural irregularity that would change the determination of whether a violation occurred;
 - ii. The discovery of new evidence that would change the outcome of the matter and that was not reasonably available at the time the determination of whether a violation occurred or dismissal was made; or

¹⁰⁷ 34 C.F.R. § 106.46(h)(2)

¹⁰⁸ 34 C.F.R. § 106.45(i)

¹⁰⁹ 34 C.F.R. § 106.46(i)

- iii. A Title IX Coordinator had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome of the matter.
- e. The Title IX Coordinator shall promptly notify the other Party of the appeal and provide a copy of the Party's written statement. The other Party may submit a written counterstatement within **3 business days** thereafter.
- f. The decisionmaker on appeal may uphold the decision, modify it, or remand the matter to the Title IX Coordinator for further factual development.
- g. The trained designee of the Chancellor shall inform the Parties of the decision on appeal and the rationale for the decision on appeal in writing within **5 business days** of the last Party's written submission or as soon as practicable thereafter.
- h. The Parties may challenge the trained designee of the Chancellor's involvement for bias or a conflict of interest with the potential to undermine the integrity of the appellate process. The Chancellor may decide any such challenge of a designee and replace the designee with an appropriate substitute.

C. Disciplinary Proceeding for the Prompt and Equitable Resolution of Complaints of Sex-Based Harassment that involve a Student-Complainant or a Student-Respondent.

- 1. **No Commingling of Roles:** The Parties shall have the right for the disciplinary proceeding to be carried out free from conflicts of interest

by ensuring that there is no comingling of administrative or adjudicative roles.¹¹⁰ During the disciplinary proceeding, there shall be no commingling of the roles of (1) attorney or non-attorney advisor, (2) investigator, (3) adjudicator, and (4) appellate adjudicator.¹¹¹ The investigator may, however, present evidence at a Hearing.¹¹²

2. Notice of Allegations and Initial Communications to the Parties

- a. The College shall provide written notice to the Parties whose identities are known.¹¹³ This notice shall include the following:
 - i. A copy of these procedures including the informal resolution process, along with the appendices (which will include Ark. Code Ann. § 6-62-1401 et seq, as set forth in **Appendix A**);¹¹⁴
 - ii. Sufficient information, available at the time, to allow the Parties to respond to the allegations. Sufficient information includes:¹¹⁵
 - a. The identity of the Parties involved in the incident(s);
 - b. The date(s) and location(s) of the alleged incident(s); and

¹¹⁰ Ark. Code Ann. § 6-60-1404(c)(1)(H)(i)

¹¹¹ Ark. Code Ann. § 6-60-1404(c)(1)(H)(ii)

¹¹² Id.

¹¹³ 34 C.F.R. §§ 106.45(c), 106.46(c)

¹¹⁴ Ark. Code Ann. § 6-60-1404(c)(1A); 34 C.F.R. §§ 106.45(c)(1), 106.46(c)

¹¹⁵ 34 C.F.R. §§ 106.45(c)(1), 106.46(c)

- c. The conduct allegedly constituting a violation of the Title IX Policy as determined by these procedures;¹¹⁶

- iii. A statement that the Respondent is presumed not responsible for the alleged conduct until a determination of whether a violation occurred is made at the conclusion of the disciplinary proceeding under these procedures and that the Parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;¹¹⁷

- iv. A statement that the Parties are entitled to an advisor of their choice during the disciplinary proceeding (*i.e.*, investigatory interviews, Hearing, and appeal), and the advisor may be (but is not required to be) an attorney.¹¹⁸ The statement must be provided no later than **24 hours** before the Respondent may be questioned regarding an alleged violation, provided nothing herein restricts the ability of Campus law enforcement to investigate a possible criminal violation.¹¹⁹ The statement shall further explain that:
 - a. The College must provide the Party with an advisor of The College 's choice, without charge

¹¹⁶ 34 C.F.R. §§ 106.45(c), § 106.46(c)(1)

¹¹⁷ 34 C.F.R. § 106.46(c)(1)(i)

¹¹⁸ 34 C.F.R. § 106.46(c)(1)(ii)

¹¹⁹ Ark. Code Ann. § 6-60-1404(c)(1)(E)(ii)

to the Party, for the purpose of advisor-conducted questioning.¹²⁰

- v. A statement that the Party is entitled to receive access to the Administrative File;¹²¹
 - vi. A statement that these procedures prohibit knowingly making false statements or knowingly submitting false information during the disciplinary proceeding;¹²² and
 - vii. A statement that Retaliation is prohibited.
- b. If, in the course of an investigation, the Title IX Coordinator decides to investigate additional allegations about the Respondent's conduct toward the Complainant that are not included in the original notice or that are included in a Complaint that is consolidated as set forth in these procedures, the Title IX Coordinator must provide notice of the additional allegations of the Parties whose identities are known.¹²³

3. Role of Advisor

- a. A Party shall have a right to be present and advised by an attorney or non-attorney advisor during the Party's investigatory interviews, the Hearing to determine responsibility,¹²⁴ and the appeal.¹²⁵ The advisor may fully

¹²⁰ 34 C.F.R. § 106.46(f)(1)(ii)

¹²¹ 34 C.F.R. § 106.46(c)(2)(iii)

¹²² 34 C.F.R. § 106.46(c)(1)(iv)

¹²³ 34 C.F.R. § 106.46(c)(2)

¹²⁴ Ark. Code Ann. § 6-60-1404(c)(1)(D)

¹²⁵ Ark. Code Ann. §§ 6-60-1403(1) to 60-60-1403(2); Ark. Code Ann. § 6-60-1404(c)(1)(B)

participate in the proceeding.¹²⁶ A Party may be represented by an advisor until the conclusion of the appellate process.¹²⁷ The following principles also apply to advisors:

- i. An advisor may provide discreet advice to the represented Party during an investigatory interview but may not interfere with the information-gathering process.
- ii. If a Party requests a University-provided advisor, The College must provide the Party with an advisor of The College's choice, without charge to the Party, for the purpose of advisor-conducted questioning. In those instances, The College must not appoint a Confidential employee and may appoint, but is not required, to appoint an attorney to serve as an advisor.¹²⁸ In the alternative, the Party may utilize the services of an advisor of the Party's choice (at the Party's own expense) or proceed without an advisor (subject to the limitations on questioning set forth herein).
- iii. The Hearing Officer or Chair of the Hearing Panel may disallow the attendance of a particular advisor if, in the discretion of the Hearing Officer or Chair, such person's presence becomes disruptive or obstructive to the process. Advisors will not be permitted to question a witness in an abusive or threatening manner.

4. Initial Meeting with Respondent

¹²⁶ Ark. Code Ann. § 6-60-1404(c)(1)(B)(ii)

¹²⁷ Ark. Code Ann. § 6-60-1404(c)(1)(B)(iii)

¹²⁸ 34 C.F.R. § 106.46(f)(ii)

The Title IX Coordinator will promptly schedule an initial meeting with the Respondent after the written notice of the Complaint is sent as described above. During the initial meeting with the Respondent, the Title IX Coordinator will, as applicable:

- a. Provide a copy of these procedures and Ark. Code Ann. § 6-62-1401 et seq. (if not previously provided);
- b. Explain avenues for resolution including the informal resolution process, unless the Title IX Coordinator determines that informal resolution would be inappropriate under the circumstances;
- c. Explain the steps involved in an investigation and Hearing under these procedures;
- d. Discuss confidentiality standards and concerns;
- e. Discuss non-Retaliation requirements;
- f. Inform of any Supportive Measures already determined and being provided to the Complainant that would directly affect the Respondent;
- g. Refer to law enforcement, counseling, medical, academic or other resources, as appropriate;
- h. Discuss, as appropriate, possible Supportive Measures that can be provided to the Respondent; and
- i. At least 24 hours before a Respondent may be questioned regarding the events giving rise to the Complaint, the Respondent must be notified of the Respondent's rights under Ark. Code Ann. § 6-62-1401 et seq, including the right to have the assistance of an advisor.

5. Adequate, Reliable, and Impartial Investigation

- a. After the Title IX Coordinator provides the Parties with the information described above, the Title IX Coordinator shall promptly interview the Complainant and Respondent to discuss the allegations in the Complaint. At each interview, each party will be given an equal opportunity to:
 - i. Provide the party's version of events, and
 - ii. Identify fact witnesses and present other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.¹²⁹
- b. A Party and the Party's advisor are not permitted to attend interviews other than his or her own interview.
- c. In addition to meeting with the Parties, the Title IX Coordinator shall take other investigatory steps, as necessary. Such steps may include:
 - i. Interviewing witnesses (including expert witnesses, if any) and summarizing such interviews in writing;
 - ii. Visiting, inspecting, and taking photographs of relevant sites;
 - iii. Collecting and preserving relevant evidence (potentially in coordination with law-enforcement agencies); and

¹²⁹ 34 C.F.R. § 106.45(f)(2)

- iv. Obtaining any relevant medical records, provided that the subject of the records has voluntarily authorized the release of the records in writing.
- d. The investigation shall ordinarily be completed within **60 Days** after the disciplinary proceeding is initiated or as soon as practicable thereafter.¹³⁰

6. Administrative File

- a. At the conclusion of the investigation and at least **7 business days** before the Hearing Date, the Title IX Coordinator shall remind the Parties of their right to review the Administrative File to the extent allowed by law.¹³¹
- b. The Parties (and their advisors) shall have an opportunity to respond to the evidence contained in the Administrative File at a live Hearing.¹³²

7. Hearing Officer or Hearing Panel

- a. At least **5 business days** before the Hearing date, the Title IX Coordinator shall select a Hearing Officer or Hearing Panel and disclose the individuals' identities to the Parties.
- b. A Party may challenge a Hearing Officer or Hearing Panelist for bias or any conflicts of interest with the potential to undermine the integrity of the disciplinary proceeding. The Title IX Coordinator or a designee who is not a factfinder in

¹³⁰ 34 C.F.R. § 106.45(b)(4) (requiring “reasonably prompt time frames for the major stages of the grievance procedure”)

¹³¹ Ark. Code Ann. § 6-60-1404(c)(1)(G)(i) (requiring an ability to “review” the Administrative File “beginning at least seven (7) business says before a disciplinary Hearing)

¹³² 34 C.F.R. § 106.46(e)(6)(ii)

the case shall promptly resolve the challenge and designate a substitute as appropriate.

- c. Persons who serve as Hearing Officers or Hearing Panelists may not be the same individuals who investigated the alleged misconduct.

8. Hearing Procedures

The Title IX Coordinator shall schedule a Hearing date within **30 Days** after completion of the investigation. The Title IX Coordinator shall notify each Party, in writing, of the Hearing date at least **10 Days** before the Hearing date.

- a. The Hearing Officer or Hearing Panel may pose questions to the witnesses before affording the Parties an opportunity to ask questions.
- b. The Hearing Officer or Hearing Panel will make all determinations regarding the order of witnesses, relevancy of questions, and the evidence to be considered or excluded during the Hearing and decision-making process. The Hearing Officer or Hearing Panel may, in its discretion, choose to call the Title IX Coordinator or investigator for the purpose of explaining the investigation and findings.
- c. The Hearing Officer or Hearing Panel must determine whether a proposed question is relevant and not otherwise impermissible prior to the question being posed, and must explain any decision to exclude a question as not relevant.¹³³ If the Hearing Officer or Hearing Panel determines that a Party's question is relevant and not otherwise impermissible,

¹³³ 34 C.F.R. § 406.46(f)(3)

then the question must be asked except that no questions that are unclear or harassing of the Party being questioned will be permitted. The Hearing Officer or Hearing Panel must give a Party an opportunity to clarify or revise a question that the Hearing Officer or Hearing Panel has determined is unclear or harassing and, if the Party sufficiently clarifies or revises a question to satisfaction, the question must be asked.

- d. The Hearing Officer or Hearing Panel has discretion to determine whether the Parties may present expert witnesses as long as the determination applies equally to both Parties.¹³⁴
- e. At the Hearing, the Parties may:¹³⁵
 - 1. Make an opening and closing statement;¹³⁶
 - 2. Present relevant evidence;¹³⁷ and
 - 3. Cross-examine adverse witnesses.¹³⁸
- f. The Parties may pose relevant questions to witnesses under the following conditions:
 - i. In cases in which a Party is represented by an advisor, the advisor may pose questions to the witness directly.
 - ii. In cases in which a Party is not represented by an advisor, the questions may be asked through the

¹³⁴ 34 C.F.R. § 406.46(e)(4)

¹³⁵ Ark. Code Ann. § 6-60-1404(c)(1)(D)(ii)-(iv)

¹³⁶ Ark. Code Ann. § 6-60-1404(c)(1)(D)(4)(ii)

¹³⁷ Ark. Code Ann. § 6-60-1404(c)(1)(D)(4)(iii)

¹³⁸ Ark. Code Ann. § 6-60-1404(c)(1)(D)(4)(iv)

Hearing Officer or Hearing Panel. A Party may not, however, question a witness directly.¹³⁹ The Party may tender an initial set of proposed questions prior to the Hearing and propose follow-up questions, including questions challenging credibility, that a Party wants asked of any Party or witness.¹⁴⁰

- g. The Hearing Officer or Hearing Panel must not draw an inference about whether Sex-Based Harassment occurred based solely on a Party's or witness's refusal to respond to such questions. However, the Hearing Officer or Hearing Panel may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions.¹⁴¹
- h. Hearings may be conducted through a live Hearing with the Parties physically present in the same geographic location. At the College's discretion or upon the request of either Party, it will conduct the live Hearing with the Parties physically present in separate locations with technology enabling the Hearing Officer or Hearing Panel and Parties to simultaneously see and hear the Party or the witness while that person is speaking or communicating in another format.¹⁴²
- i. The College shall create an audio, audiovisual, or transcript of the Hearing.¹⁴³

¹³⁹ 34 C.F.R. § 106.46(f)(1)(ii)

¹⁴⁰ 34 C.F.R. § 106.46(f)

¹⁴¹ 34 C.F.R. § 106.46(f)(4)

¹⁴² 34 C.F.R. § 106.46(g)

¹⁴³ Ark. Code Ann. § 6-60-1404(b)(3); 34 C.F.R. § 106.46(g)

9. Written Decision

- a. As soon as practicable after the Hearing (but no later than **30 Days** after a Hearing), the Hearing Officer or Chair of the Hearing Panel shall provide the Title IX Coordinator with the written decision that contains the following:¹⁴⁴
 - i. A description of the alleged Sex-Based Harassment;
 - ii. Information about the Title IX Policy and procedures The College used to evaluate the allegations;
 - iii. The Hearing Officer or Hearing Panel's evaluation of the relevant and not otherwise impermissible evidence and determination of whether a violation occurred;
 - iv. The Hearing Officer or Hearing Panel's determination of whether a violation occurred;
 - v. In all cases involving a Respondent who is not an employee and where the Hearing Officer or Hearing Panel determined that a violation occurred, any Disciplinary Sanctions the College will impose on the Student-Respondent;
 - vi. When the Hearing Officer or Hearing Panel finds that a violation occurred, whether any remedies other than the imposition of Disciplinary Sanctions will be provided by The College to the Complainant and, to the extent appropriate, other Students identified by The College to be experiencing the effects of a violation; and

¹⁴⁴ 34 C.F.R. § 106.46(h)(1)

- vii. The College 's procedures to appeal the result of the disciplinary proceeding;¹⁴⁵

- b. In cases involving an Employee-Respondent where the Hearing Officer or Hearing Panel's determined that a violation occurred, the Title IX Coordinator will inform the appropriate University officials of the outcome. The Title IX Coordinator will coordinate with appropriate University officials to determine Disciplinary Sanction(s) that may be imposed on the Respondent and include any Disciplinary Sanctions(s) in the written decision to the Parties.

- c. The Title IX Coordinator shall simultaneously distribute the written decision to the Parties.

- d. If there is a determination that a violation occurred, as appropriate, the Title IX Coordinator shall provide and implement remedies to a Complainant or other affected person(s) and take other prompt and effective steps to ensure that a violation does not continue or recur within The College 's education program or activity.¹⁴⁶

- e. In cases involving allegation of Sex Discrimination, The College shall not discipline a Party, witness, or others participating in the disciplinary proceeding for making a false statement or for engaging in consensual sexual conduct based solely on The College 's determination of whether Sex Discrimination occurred.¹⁴⁷

¹⁴⁵ Ark. Code Ann. § 6-60-1404(c)(1)(I)(iii)(b)

¹⁴⁶ 34 C.F.R. § 106.45(h)(3)

¹⁴⁷ 34 C.F.R. § 106.45(h)(5)

- f. The determination regarding responsibility becomes final either on The College providing the Parties with the written decision of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely in accordance with the next section.¹⁴⁸

10. Appeals

- a. A Party may appeal a decision on whether a violation occurred by submitting a written statement to the Title IX Coordinator within **25 Days**¹⁴⁹ of receiving the Hearing Officer or Hearing Panel's written decision. An Appeal Form is set forth in **Appendix C**.
- b. The appeal shall be heard by a trained designee of the Chancellor. At this institution, the designated persons are the Vice Chancellor for Student Services in cases in which the respondent is a student of the institution; the Vice Chancellor for Academic Affairs in cases in which the respondent is a full-time faculty member; and the Director of Human Resources in all other cases.
- c. The appeal shall be decided based on the record and without deference to the decision of the Hearing Officer or Hearing Panel.
- d. A Party may only appeal based on one of the following grounds:¹⁵⁰

¹⁴⁸ 34 C.F.R. § 106.46(h)(2)

¹⁴⁹ Ark. Code Ann. § 6-60-1404(c)(1)(F)(ii)

¹⁵⁰ 34 C.F.R. § 106.46(i)

- i. A procedural irregularity that would change the determination of whether a violation occurred;
 - ii. The discovery of new evidence that would change the outcome of the matter and that was not reasonably available at the time the determination of whether a violation occurred or dismissal was made; or
 - iii. The Hearing Officer or a Hearing Panel member had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome of the matter.
- e. The Title IX Coordinator shall promptly notify the other Party of the appeal and provide a copy of the Party's written statement. The other Party may submit a written counterstatement within **5 business days** thereafter.
 - f. The decision on appeal may uphold the decision, modify it, or remand the matter to the Hearing Officer or Hearing Panel for further factual development.
 - g. The trained designee of the Chancellor shall inform the Parties of the decision and the rationale for the decision in writing within **5 business days** of the last Party's written submission or as soon as practicable thereafter.¹⁵¹
 - h. The Parties may challenge the trained designee of the Chancellor's involvement for bias or a conflict of interest with the potential to undermine the integrity of the appellate process. The President or designee may decide any such

¹⁵¹ Id.

challenge and replace the administrator with an appropriate substitute.

11. Certification of Compliance

- a. At the conclusion of the disciplinary proceeding involving Student-Respondents, the Chancellor or Vice Chancellor of Student Services shall certify, on a form similar to **Appendix D**, that the substantial rights of the Complainant and Respondent as established in Act 470 of 2023, codified at Ark. Code Ann. § 6-62-1401 et seq, have been followed.¹⁵²
- b. The certification shall be maintained in the Administrative File.¹⁵³

Section 7: Amnesty

The College offers amnesty to anyone who may be hesitant to report Sex Discrimination because of fear that they personally may be accused of drinking or using drugs at the time of the incident. Educational options may be explored, but no conduct sanctions or records will result. Amnesty will not be extended for violations of University policy other than alcohol/drug use. The use of alcohol, drugs, and/or legally prescribed medication does not justify or excuse behavior that constitutes prohibited conduct under the Title IX Policy.

Section 8: Disciplinary Sanctions

- A. Disciplinary Sanctions must be reasonable and proportionate to the seriousness of the violation. In a Sex-Based Harassment disciplinary proceeding involving a Student-Complaint or Student-Respondent, the

¹⁵² Ark. Code Ann. § 6-60-1404(d)(1)

¹⁵³ Ark. Code Ann. § 6-60-1404(d)(2)

Title IX Coordinator must accurately advise the Hearing Officer or Hearing Panel of Disciplinary Sanctions that have been imposed for similar violations in the past, as available and applicable, in order to ensure consistency and equity across time.

- B. A Student's conduct history shall not impact the finding of responsibility, but it may be used as information in determining appropriate Disciplinary Sanctions.
- C. Ordinarily, Disciplinary Sanctions will not be imposed until the resolution of an appeal. However, if it is deemed necessary to protect the welfare of the Complainant or The College community, Title IX Coordinator or the Hearing Officer or Hearing Panel may recommend to the decisionmaker on appeal that any sanctions be imposed immediately and continue in effect until such time as the appeal process is exhausted.
- D. Any Disciplinary Sanction imposed on a Respondent—including those based on a finding that Sex-Based Harassment occurred¹⁵⁴—may take on, but are not limited to, the following forms:

Student Disciplinary Sanctions:

- 1. Verbal warning;
- 2. Written reprimand or censure;
- 3. Probation and/or suspension in abeyance (including deferred suspension);
- 4. Loss of privileges for a specified period of time;

¹⁵⁴ 34 C.F.R. § 106.45(l)

5. A requirement to receive certain training or imposition of other educational sanctions;
6. Community service;
7. Removal from Campus housing, including terms for readmission;
8. Suspension from The College, including terms for readmission; and/or
9. Expulsion from The College.

Employee Disciplinary Sanctions:

1. Verbal warning;
 2. Written reprimand;
 3. Suspension;
 4. Termination;
 5. Reassignment;
 6. Demotion;
 7. Reduction in pay;
 8. Ineligibility for salary increases; and
 9. A requirement to receive certain training or imposition of other educational sanctions.
- E. A Respondent's failure to satisfy or complete a Disciplinary Sanction within the allotted time may result in additional disciplinary actions.

Section 9: Confidentiality

- A. When conducting an informal resolution process under these procedures, implementing a disciplinary proceeding, or requiring the Title IX Coordinator to take other appropriate steps under these procedures, The College must not disclose personally identifiable information such as the identity of a Party, witness, or other participant except in the following circumstances:¹⁵⁵
1. When the Party, witness, or other participant has provided prior written consent to disclose their identity;
 2. When disclosed to a parent, guardian, or other authorized legal representative with a legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
 3. When permitted under the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, or its implementing regulations, 34 C.F.R. Part 99;
 4. As required by law; or
 5. To carry out the purposes of Title IX, including action taken to address conduct that reasonably may constitute Sex Discrimination under Title IX in The College 's program or activity.
- B. To protect the privacy of all Parties and in accordance with FERPA, the Hearing will be closed.
- C. Disclosure of final results to third parties, if permitted, shall include only the name of the Respondent, the violation committed, and any Disciplinary Sanction imposed. The disclosure must not include the name of any other

¹⁵⁵ 34 C.F.R. § 106.44(j)

Student, including a Complainant or witness, without the written consent of that other Student.

- D. The College may take reasonable steps to protect the privacy of the Parties and witnesses during the pendency of a disciplinary proceeding under these procedures, but it will not restrict the ability of the Parties to obtain and present evidence, including by speaking to witnesses; consulting with a family member, confidential resource, or advisor; preparing for a Hearing (if one is offered); or otherwise defending their interests.¹⁵⁶
- E. Except as allowed by the Parties' Free Speech Rights, the Parties and their advisors may not disclose information and evidence obtained solely through the processes set forth in these procedures without authorization.¹⁵⁷

Section 10: Preserving Evidence

It is important that evidence of sexual assault be preserved because it may be needed for prosecuting the criminal case. Victims and others should not alter the scene of the attack. The victim should not change clothes, bathe or shower, drink or eat anything, or brush his or her teeth before reporting the assault. Any items worn by the victim during the assault, but are not currently being worn, and any materials encountered during the assault (i.e., bed sheets, blankets, etc.) should be placed in a paper bag and brought along with the victim to a local hospital emergency department that has kits to collect and preserve evidence of rape and sexual assault.

Section 11: Effective Date of Policy and the Procedures

The College reserves the right to make changes and amendments to the Title IX Policy and these procedures as needed, with appropriate notice to the Campus community. However, The College will use Title IX Policy and procedures in force at

¹⁵⁶ 34 C.F.R. § 106.45(b)(5)

¹⁵⁷ 34 C.F.R. § 106.46(e)(6)(iii)

the time that the alleged violation occurs to promptly and effectively respond to the alleged violation.

Appendix B: Sex Discrimination Complaint Form

Nature of Complaint

Sex-Based Harassment

- Quid Pro Quo
- Hostile Environment
- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

Other Sex Discrimination

Complainant Information

Student

Title IX Coordinator

Other

Legal Representative
of Complainant

Employee

Name: _____ University ID No. _____

Email: _____ Phone Number: _____

Local address: _____

Incident Information

Date of Incident: _____

Location of Incident: _____

Description of Incident: _____

(use additional pages as necessary)

Witnesses to the incident(s):

<u>Name</u>	<u>Description of relevant knowledge</u>
_____	_____
_____	_____
_____	_____
_____	_____

Please provide any documentation that is relevant to the alleged incident.

Appendix C: Appeal Form

Name: _____

ID No. (if available)_____

The appeal must be submitted to the Title IX Coordinator. A Party may appeal the written decision for the following reasons only:

1. A procedural irregularity that affected the outcome;
2. The discovery of new evidence that was not reasonably available when the determination of responsibility was made that could affect the outcome;
3. The College investigator or decisionmaker had a conflict of interest or bias that affected the outcome; or
4. In a Disciplinary Proceeding for Sex-Based Harassment involving a Student-Complainant or Student-Respondent only, the Disciplinary Sanctions are grossly disproportionate to the severity of the offense.

Please select the reason for your appeal (you may select more than one):

1. _____ 2. _____ 3. _____ 4. _____

Please provide a narrative of the basis for your appeal. This is not a statement of the incident, but rather an explanation of why the decision should be overturned. If your appeal is based on reason 1, 2, or 3, include an explanation as to how the outcome was affected. You may use more than one page.

Appendix D: Form for Chancellor or Vice Chancellor's Certification of Compliance

In my capacity as Chancellor or Vice Chancellor for Student Services, I certify that that the substantial rights of student complainants and respondents established under the Arkansas Student Due Process and Protection Act, Ark. Code Ann. § 6-60-1401 et seq., have been followed. This certification shall be placed in the Administrative File required under state law.

/s/ _____
[VC's name]
[title]