

TITLE IX: PROHIBITED DISCRIMINATION AND HARASSMENT

SECTION ONE: POLICY STATEMENT AND TITLE IX COORDINATOR

1.01 Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et. seq.)

Protects individuals from discrimination and harassment based on sex in any educational program or activity operated by recipients of federal funds. Sexual harassment, including sexual violence, is a form of sex discrimination.

1.02 Title IX Policy Statement

1.02.1. It is the policy of Angelina College to provide an educational and working environment for its students, faculty, and staff that is free from sex discrimination, sexual harassment, sexual assault, sexual misconduct, domestic violence and dating violence, and stalking. In accordance with federal and state law, the College prohibits discrimination on the basis of sex (including gender) and prohibits sexual harassment, sexual assault, sexual misconduct, interpersonal violence, and stalking.

1.02.2. The College will not tolerate sex discrimination, sexual harassment, sexual misconduct or physical abuse, threats of violence, physical assault, or any form of sexual violence, including but not limited to sexual assault, acquaintance rape, domestic violence, dating violence, or stalking (collectively or singly referred to as “prohibited conduct”). Individuals who alone, or in concert with others, participate or attempt to participate in prohibited conduct described in this policy are subject to disciplinary action by the College, notwithstanding any action that may or may not be taken by civil or criminal authorities.

1.02.3. The College encourages affected individuals to promptly report incidents of sex and gender discrimination, sexual harassment, sexual assault, sexual misconduct, interpersonal violence, and stalking as provided in this policy. The College also encourages individuals who may have witnessed instances of prohibited conduct to report such information as outlined in this policy.

1.02.4. Responsible Employees of the College (as defined below) are required to promptly report incidents of prohibited conduct. The College will respond to all reports made under this policy. The College will conduct a prompt, fair, and impartial investigation and resolution for complaints and, where appropriate, issue remedial measures and/or sanctions

1.03 Title IX Coordinator

The College's Title IX Coordinator, Tifini Whiddon, may be contacted by email at twhiddon@angelina.edu or by phone (936) 633-4511. The Title IX Coordinator's responsibilities include coordination of the College's efforts to comply with and carry out its responsibilities under Title IX, including any investigation of any complaint communicated to the College alleging its noncompliance with Title IX or alleging any actions that would be prohibited by Title IX. The Title IX Coordinator shall promptly respond in a purposeful way to any reports of sexual discrimination including sexual harassment of which the college has actual knowledge as follows:

- Contact the complainant within 10 business days and discuss the availability of supportive measures, with or without the filing of a formal complaint, and consider the complainant's wishes as to supportive measures; and
- Inform the complainant of the right to a formal complaint investigation consistent with Title IX and the informal resolution process. Any College student, employee, guest, or vendor may contact the Title IX Coordinator to file a complaint, to ask questions about sexual harassment, or to discuss concerns or incidents impacting the campus climate. Students may also contact the U.S. Department of Education, Office for Civil Rights (800-421-3481) to complain of sex discrimination or sexual harassment including sexual violence. Not less than once every three months, the Title IX Coordinator shall submit to the College President a written report on the reports received for the institution's reporting period including information regarding:
 - The investigation of those reports;
 - The disposition, if any, of any disciplinary processes arising from those reports; and;
 - The reports for which the College determined not to initiate a disciplinary process, if any. The Title IX Coordinator shall immediately report to the College President an incident reported to the coordinator if the coordinator has cause to believe that the safety of any person is in imminent danger because of the incident.

1.04 Title IX Coordinator's Contact Information:

Tifini Whiddon, Director of Human Resources
Office: Angelina College, Student Center Building, Rm. 206
3500 S. First St., Lufkin, TX 75901
Phone: (936) 633-4511
Email: twhiddon@angelina.edu

SECTION TWO: PROCESS

2.01 Filing a Report/Complaint

Reports/Complaints about prohibited behavior can be made at any time. Students, employees, guests, and vendors may file a report/complaint with the Title IX Coordinator or any Responsible Employee (see definition of “Responsible Employee” below). After the written notice of a formal complaint has been given to the College, both the complainant and the respondent will receive written notice. Formal complaints may be resolved in one of three ways: through the formal complaint process (see sections 2.01.1 - 2.03.3); through informal resolution (see section 2.05); or through mandatory dismissal (see section 2.06). “Actual Knowledge” means notice or report of sexual harassment or allegations of sexual harassment to the College’s Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College.

2.01.1 Formal Complaint

A formal complaint is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. The procedures for filing a formal complaint are as follows:

- At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the College.
- A formal complaint should be filed in writing, either in hard copy or electronically, and contain the name and address of the person filing the complaint. The complaint should briefly describe the alleged violation. Filing of the complaint with the Title IX Coordinator may be done in person, by mail, by email, or by any means that results in the Title IX Coordinator receiving the person’s verbal or written report. If an individual does not wish to file a written complaint, and the matter has not been adequately resolved, the Title IX Coordinator may initiate the complaint. Forms for filing written complaints are available on the College campus, in the Human Resources Office in the Student Center, Room 206, and on the College website.
- A complaint should be filed as promptly as possible after the conduct occurs.
- An investigation shall follow the filing of the complaint. If the complaint is against the College President, the Board shall appoint an investigating officer. If the complaint is against the Title IX Coordinator, the Coordinator shall immediately forward the complaint to the College President, and the College President will appoint an investigating officer. In all other instances, the investigation shall be conducted by a qualified individual designated by the Title IX Coordinator. The investigation shall be thorough; all interested persons,

including the complainant and the respondent, will be afforded an opportunity to submit written or oral evidence relevant to the complaint.

2.01.2 Formal Complaint Notice Requirements

Upon filing of a formal complaint, the college shall provide written notice to the known parties including:

Notice of the allegations of sexual harassment including sufficient details to prepare a response before any initial interview including:

- the identities of the parties involved, if known;
- the conduct allegedly constituting sexual harassment;
- the date and location of the alleged incident, if known;
- The college's investigation procedures, including any informal resolution process;
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made by the decision-maker at the conclusion of the investigation;
- Notice to the parties they may have an advisor of their choice and may inspect and review any evidence; and
- Notice to the parties of any provision in the College's code of conduct or policy that prohibits knowingly making false statements or knowingly submitting false information.

If, in the course of an investigation, the investigator decides to investigate allegations about the complainant or respondent that are not included in the notice initially provided, written notice of the additional allegations shall be provided to known parties.

2.01.3 Supportive Measures

The college will treat the complainant and respondent equitably by offering supportive measures. These nondisciplinary and nonpunitive measures will be offered as appropriate, as reasonably available, and without cost to the complainant or the respondent. Supportive measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party. "Supportive Measures" shall include, but not be limited to, measures designed to protect the safety of all parties, to protect the college's educational environment, or to deter sexual harassment. These measures may include: counseling; extensions of deadlines or course-related adjustments; modifications of work or class schedule; escort services; mutual restrictions on contact between the parties; changes in work locations; leaves of absence; increased security and monitoring; and other similar measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

2.01.4 Education Program or Activity

The College must respond when sexual harassment occurs within an “education program or activity” against a person in the United States. Title IX applies only to conduct that occurs in the United States. An “education program or activity” is broadly defined to include locations, events, or circumstances over which the College exercised substantial control as to both respondent and the context in which the sexual harassment occurred. If the alleged conduct does not constitute “sexual harassment”, does not occur within an “educational program or activity” or does not occur in the United States, the institution must dismiss the complaint for purposes of Title IX. However, the College is permitted to address such allegations through its code of conduct policy. The College is responsible for reporting crimes that occur at on-campus locations that include:

- Student housing;
- Public property within campus bounds;
- Public property immediately adjacent to the campus; and
- Non-campus buildings and property owned and controlled by the College, or by a student organization officially recognized by the institution.

2.01.5 Confidential Employees

The College shall designate one or more employees as persons to whom students enrolled at the College may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking and inform each student enrolled at the institution of the designated “confidential employees”.

A confidential employee designated under this section may not disclose any communication made by a student to the employee unless the student consents to the disclosure or the employee is required to make the disclosure under state or federal law.

Absent consent from the reporting student, an employee designated by the College as a person with whom students may speak confidentially concerning sexual harassment, sexual assault, dating violence, or stalking shall only state the type of incident reported and may not include any information that would violate a student’s expectation of privacy.

When multiple confidential employees receive information about the same incident, only a single report stating the type of incident is required.

2.02 Complaint and Investigation

2.02.1 Written Notice

Both parties will receive written notice of the formal complaint. The written notice must include sufficient detail of the allegations (including the identities of

the parties involved, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident) to permit parties to prepare for an initial interview. It also must inform the parties that they may have an advisor of their choice and inspect and review evidence obtained during the investigation. Other requirements of the written notice are as follows:

- It must include a statement “that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process”; and
- It must include a statement informing the parties of any provision of the institution’s code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the complaint process.

2.02.2 Reporting

The College strongly encourages that a complaint be filed as promptly as possible after the conduct occurs. Delays in reporting can greatly limit the College’s ability to stop the alleged conduct, collect evidence, and/or take effective action against individuals or organizations accused of violating this policy.

Any person may report sex discrimination, including sexual harassment, whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment, in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX coordinator receiving the person’s verbal or written report. Such a report may be made at any time, including during non-business hours by the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

A report of alleged violations of this policy may be made by a person who believes he/she experienced prohibited conduct (a complainant); and/or a person who has information that prohibited conduct may have been committed (a reporter). The report must include all information concerning the incident known to the reporting person that is relevant to the investigation, if applicable, redress of the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident.

A person commits an offense if the person is required to make a report and knowingly fails to make the report or with the intent to harm or deceive, knowingly makes a report that is false. The College shall terminate the employment of an employee whom the institution determines in accordance with the institution’s disciplinary procedure to have committed the offense.

The College shall provide an option for a student enrolled at or an employee of the institution to electronically report an allegation of sexual harassment, sexual assault, dating violence, or stalking committed against or witnessed by the student

or employee, regardless of the location at which the alleged offense occurred. The electronic reporting option must:

- Allow for anonymous reporting; and
- Be easily accessible on the College's website home page through a clearly identifiable link.

2.02.3 Investigation and Standard of Evidence

The College may temporarily remove a student from campus on an interim basis during the pendency of a complaint in limited "emergency" circumstances where there is an immediate threat to physical health or safety. Before the College can take this emergency measure, however, the institution must do the following:

- Undertake an individualized safety and risk analysis to determine whether there is an immediate threat to the physical health or safety of any person arising from the allegations of sexual harassment;
- Make an affirmative determination that such an immediate threat exists based on its individualized safety and risk analysis; and
- Provide the respondent with notice and an opportunity to challenge the emergency decision immediately following the respondent's removal.

The College may place an employee on administrative leave during the pendency of a complaint. Whether such leave is paid or unpaid is at the institution's discretion. The College will handle reports of prohibited conduct consistently and ensure prompt and equitable resolution of such reports. The purpose of an investigation, which includes interviewing the parties and witnesses, is to gather and assess the evidence. The standard of evidence that will be used in investigating and adjudicating complaints made under this policy is the "preponderance of the evidence" standard. This standard is met if the allegation is deemed more likely to have occurred than not. All investigators shall have appropriate and ongoing training regarding issues related to sexual harassment, sexual discrimination, dating violence, domestic violence, sexual assault, sexual misconduct, and stalking, as well as, on how to conduct an investigation that protects the safety of complainants and promotes accountability.

To ensure a complete and thorough investigation and to protect the parties, the investigator shall:

- Ensure that the burden of proof, and the burden of gathering evidence sufficient to reach a determination regarding responsibility, rest on the investigator and not on the parties. The investigator cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the recipient obtains that

party's voluntary, written consent to do so for a complaint process under this section.

- Provide an equal opportunity for the parties to present witnesses and evidence;
- Not restrict either party's ability to discuss the allegations under investigation or to gather and present relevant evidence;
- Allow the parties to be accompanied with an advisor of the party's choice;
- Provide written notice of the date, time, location, participants, and purpose of any interview, meeting, or hearing at which a party is expected to participate;
- Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the investigator does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the investigator must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten days to submit a written response, which the investigator will consider prior to completion of the investigative report. The investigator must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
- Be impartial and objectively evaluate all relevant evidence without relying on sex stereotypes;
- Not have conflicts of interest or bias for or against complainants or respondent; and
- Not make credibility determinations based on the individual's status as complainant, respondent, or witness.

2.02.4 Formal Complaint Investigations Report

The investigator shall prepare an investigative report that summarizes relevant evidence and share the report with the parties and their advisors for review and response within 60 days of the initiation of the formal complaint. If the investigation requires longer than 60 days, both parties will be notified.

Before completing the investigative report, the investigator must send each party and their advisors the investigative report for review and allow the parties 10 days to submit a written response for the investigator's consideration.

The investigator shall prepare an investigative report that summarizes relevant evidence and share the report with the parties and their advisors for review and response within 60 days of the initiation of the formal complaint. If the investigation requires longer than 60 days, both parties will be notified.

2.03 Hearing

Following the investigation, a live hearing will take place.

Unless the investigation is resolved through an informal resolution agreement or a formal complaint dismissal, a live hearing is required to be conducted under Title IX.

2.03.1 Pre-Hearing Entitlements

Both the complainant and the respondent may have an advisor present. The advisor may be an attorney but does not have to be. If either the complainant or respondent do not have access to an advisor, the college will provide one at no cost. Both parties must have access to evidence obtained, including the investigator's report, and equal opportunity to refer to such evidence during the hearing.

2.03.2 Hearing Processes and Procedures

The decision-maker of the hearing must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow up questions. Cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice, never by the party personally.

At the request of either party, the college must provide for the live hearing to occur with the parties located in separate rooms, with technology that enables all parties and the decision-maker to simultaneously see and hear the witness answering questions.

The decision-maker has the responsibility to determine the relevancy of the questions and explain in real time any decision not to permit a question.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

2.03.3 Conclusion of Hearing

After the hearing, the decision-maker must issue a written determination, within 10 days, of responsibility based on a preponderance of evidence. If written determination cannot take place within 10 days, both parties will be notified. The written determination must include:

- Identification of the allegations;
- Description of the procedural steps taken throughout the case;
- Findings of facts supporting the determination;
- Conclusions regarding application of the Title IX policy;
- A statement and rationale as to the determination for each allegation;
- A statement of any disciplinary sanctions and whether any remedies will be provided to the complainant; and
- A description of the procedures and permissible grounds for appeal.

The College must make an audio or video recording of the hearing, or a transcript, and make it available to the parties for inspection and review.

A copy of the written determination shall be provided to both parties simultaneously. The range of disciplinary sanctions and remedies may include, but may not be limited to, supportive measures, short term suspension, long term suspension, expulsion for students, and/or termination for employees. The Title IX Coordinator is responsible for the effective implementation of sanctions and remedies. If the investigation results in a recommendation that a student be suspended or expelled, procedures outlined in Board policy and state law governing student suspension and expulsion will be followed.

If the investigation results in a recommendation that an employee be suspended with or without pay or terminated, procedures outlined in Board policy and/or state law will be followed.

Records relating to complaints filed and their resolution shall be maintained by the Title IX Coordinator for seven years.

The decision becomes final on the date the parties receive the results of an appeal, if any appeal is filed, or on the date the opportunity for an appeal expires.

2.04 Appeals Process

The College must offer both parties an appeal from:

- A determination regarding responsibility, and
- An institution's dismissal of a formal complaint or any allegation therein.

Additionally, the complainant or respondent may appeal the decision-maker's determination, within 10 days, based on any of the following:

- Procedural irregularity that affected the outcomes;
- New evidence that was not reasonably available at the time that could affect the outcome; and/or
- The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias against either party that affected the outcome. A preponderance of the evidence of a conflict of interest or bias must be proven by the appellant.

2.04.1 How to File an Appeal

The request to appeal shall be made in writing to the Title IX Coordinator within 10 days after the date of the written determination. Appeals shall be audio or video recorded and that documentation shall be kept with the case files for 7 years. Appeals shall be heard by an attorney, a hearing officer appointed by the Board, or the Board. The appeal decision-maker may not be the Title IX Coordinator, the investigator, or the decision-maker from the original determination.

The appeal decision-maker will issue a written decision within 30 days after the appeal is filed.

The appeal decision-maker will describe the result of the appeal and the rationale for the result.

The appeal decision-maker shall:

- Review the evidence gathered by the investigator, the investigator's report, and the original decision-maker's determination;
- Notify both parties in writing of the filing of an appeal and give them 10 days after the appeal is filed to submit further evidence in writing;
- Not have a conflict of interest or bias for or against complainant or respondent and receive the required training;
- Issue a written decision and the rationale for the decision within 30 days after the appeal is filed;
- Describe the result of the appeal and the rationale for the result in the decision; and
- Provide the written decision simultaneously to both parties and to the Title IX Coordinator.

2.05 Informal Resolution Process

At any time during the formal complaint process and prior to reaching a determination regarding responsibility, the college may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and determination of responsibility. The informal resolution process may be facilitated by a trained educational professional, consultant, or other individual selected by the Title IX Coordinator under the following conditions:

- The parties are provided a written notice disclosing the allegations, the requirements of the informal resolution process, information on when it may preclude the parties from resuming a formal complaint arising from the same allegations;
- At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the investigation of the formal complaint and be informed of any consequences resulting from participating in the informal resolution process;
- The parties voluntarily and in writing consent to the informal resolution process; and
- The informal resolution process cannot be used to resolve allegations that an employee sexually harassed a student.

If the matter is resolved to the satisfaction of the parties, the facilitator shall document the nature of the complaint and the proposed resolution, have both parties sign the documentation and receive a copy, and forward it to the Title IX Coordinator. Within 20 days after the complaint is resolved in this manner, the Title IX Coordinator shall contact the complainant to determine if the resolution of the matter remains acceptable. If the matter is not resolved, or if the individual does not believe the resolution remains acceptable within 20 days after the informal resolution document is executed, the individual or the Title IX Coordinator may proceed with the formal complaint process.

2.06 Mandatory Dismissals

Mandatory dismissals are required when the definition of any element of the jurisdictional framework under Title IX is not met, such as:

- Conduct alleged does not constitute “sexual harassment” under the regulations;
- Conduct alleged does not occur in the institution’s “education program or activity;”
- Conduct alleged does not occur against a person “in the United States;”
- Complainant is not participating in or attempting to participate in the “education program or activity” of the institution.

Such dismissal does not preclude action under another provision of the College code of conduct.

The College may also dismiss the formal complaint, if at any time during the investigation or hearing:

- A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the formal complaint or any allegations;
- The respondent is no longer enrolled or employed by the College; or
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations.

SECTION THREE: RECORDKEEPING

3.01 Recordkeeping

The College will maintain certain documents relating to Title IX activities for seven years. Institutions must maintain records of:

- Sexual harassment investigations, including any determination regarding responsibility and any audio or audiovisual recording or transcript, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the College's education program or activity;
- Any appeal and the result therefrom;
- Any informal resolution; and
- All materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

Furthermore, the College must create, and maintain for seven years, records of any actions (including any supportive measures) taken in response to a report or formal complaint of sexual harassment. In each instance, the College must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the institution's education program or activity.

If the College does not provide a complainant with supportive measures, the institution must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The College will revise applicable record retention policies, if necessary, and establish procedures for completing and retaining required documentation.

SECTION FOUR: GENERAL PRINCIPLES:

34.01 Retaliation

No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX 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. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report of formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation. Complaints alleging retaliation may be filed according to the complaint procedures for sex discrimination.

34.02 Support Services

Any student who requires assistance with classes, living arrangements, and/or College-provided support services and referrals as a result of an alleged violation of this policy is encouraged to visit the Office of Access and Inclusion (OAI) for additional information. OAI staff can assist students with the various reporting options and support services that may be available to them.

If a student believes he/she has experienced conduct prohibited under this policy, the student may also contact the Title IX Coordinator for additional assistance and information. A student who would like to report an alleged sexual harassment, sexual assault, domestic violence, dating violence and/or stalking to the police and would like the College Title IX Coordinator to accompany him/her to provide support during the reporting process, should contact the Title IX Coordinator, Tifini Whiddon, Human Resources Director, 936-633- 4511, twiddon@angelina.edu.

34.03 Use of Drugs and Alcohol

Any student who files a complaint, or who acts as a third-party witness in an investigation under this policy, will not be subject to disciplinary action by the College for using and/or consuming alcohol or drugs at or near the time of the alleged incident, provided that any such alcohol or drug use did not, and do not, place the health or safety of any other person at risk.

34.04 Confidentially and Anonymity

Individuals wishing to remain anonymous can file a complaint with the College Title IX Coordinator. However, electing to remain anonymous may greatly limit the College's ability to investigate an alleged incident, collect evidence, and/or take effective action against individuals or organizations accused of violating this policy.

The College has an obligation to maintain an environment free of sex discrimination, thus many College employees have mandatory reporting and response obligations and may not be able to honor a complainant's request for confidentiality. In the event confidentiality cannot be maintained, the College will share information only as necessary and only with people who need to know to fulfill the purposes of this policy and applicable law, such as investigators, witnesses, administrators, and the respondent. The College will comply

with the Family Educational Rights and Privacy Act (FERPA), and with other confidentiality laws as they apply to Title IX investigations.

34.05 Ongoing Training

The College's commitment to raising awareness of the harm resulting from the conduct prohibited in this policy includes offering ongoing education to both employees and students. In addition, the College Title IX Coordinator, investigators, decision-makers, and hearing officers receive training each academic year about offenses, investigatory procedures, due process requirements, conducting a hearing and College policies related to or described in this policy. The College is committed to protecting the safety of complainants and the due process of rights of all students, and promoting accountability. Ongoing training for all Title IX personnel, by law, must include:

- The definition of sexual harassment;
- The scope of the institution's education program or activity;
- How to conduct an investigation and complaint process, including hearings, appeals, and informal resolution process, as applicable; and
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Training must provide instruction on how to serve impartially and avoid prejudgment of the facts at issue, conflicts of interest, and bias, and that materials used in such training avoid sex stereotypes. Trauma-informed training is permitted if it does not create a bias in favor of complainants.

Additionally, the College must ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Decision-makers must receive training on the technology used at a live hearing.

Any materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

The College is required to publish all training materials on the website.

34.06 Academic, Living, Travel, or Work Accommodation(s)

In some instances, when a student reports an alleged violation of this policy to the College, the College may take emergency action to protect the emotional health or physical safety of the reporting student and/or the larger College community. Specific arrangements will be made on a case-by-case basis to ensure appropriate accommodation is provided. Such arrangements will be facilitated through the Executive Director of Student Affairs and/or other appropriate College officials and all decisions will be based upon the evidence then available.

34.07 Interim Measures and Final Sanctions for Students

43.07.1 Interim Measures

If the College receives evidence indicating a respondent presents a continuing danger to people or property or poses an ongoing threat of disrupting the academic process, the appropriate College official may take immediate interim protective action against the respondent pending a final determination of an alleged violation of this policy. Such protective/interim measures may include, but are not limited to, suspending the right of the student to be present on campus (including living in campus residence halls) and to attend classes, and otherwise altering the status of the student. Other protective measures may be implemented given the respondent's relationship with the College.

- Notice and opportunity to challenge the decision immediately following the removal must be given to the respondent;
- Rights under ADA & Section 504 still apply

The final regulations permit the College to temporarily remove a student from campus on an interim basis during the pendency of a complaint in limited "emergency" circumstances where there is an immediate threat to physical health or safety. Before it can take this emergency measure; however, the College must do the following:

- Undertake an individualized safety and risk analysis to determine whether there is an immediate threat to the physical health or safety of any person arising from the allegations of sexual harassment;
- Make an affirmative determination that such an immediate threat exists based on its individualized safety and risk analysis; and
- Provide the respondent with notice and an opportunity to challenge the emergency decision immediately following the respondent's removal.

The final regulations do not limit the College's ability to place an employee on administrative leave during the pendency of a complaint. Whether such leave is paid or unpaid is at the institution's discretion.

43.07.2 Final Sanctions

In the event a final determination is made that the respondent is responsible for violating this policy, the College may impose any of the sanctions authorized in the Student Conduct and Discipline Program.

34.08 Communication

To facilitate effective communication and coordination regarding allegations of sexual harassment, sexual assault, dating violence, and stalking at the College, the institution shall enter into one or more memoranda of understanding with an entity from one or more of the following categories:

- Local law enforcement agencies;
- Sexual harassment, sexual assault, dating violence, or stalking advocacy groups; and
- Hospitals or other medical resource providers.

34.09 Compliance and Reporting

The College President shall annually certify in writing to the Coordinating Board, in October of each year that the College is in substantial compliance with Education Code Chapter 51, Subchapter E-2. The Coordinating Board shall make available to institutions a required template for the certification, which satisfies the requirements of this section.

If the Coordinating Board determines that the College is not in substantial compliance, the Coordinating Board may assess an administrative penalty against the institution. If the Coordinating Board assesses an administrative penalty, it shall provide written notice of reasons for assessing the penalty. The College may appeal the penalty in the manner provided by Government Code Chapter 2001.

At least once annually, during the fall or spring semester, the College President shall submit to the institution's governing body and post on the institution's website a report concerning the reports of Sexual Harassment under 19 Administrative Code 3.5. The College President may not identify any person and must include:

- The number of reports received under Section 3.5;
- The number of investigations conducted as a result of those reports;
- The disposition, if any, of any disciplinary processes arising from those reports;
- The number of those reports for which the institution determined not to initiate a disciplinary process, if any, and
- Any disciplinary actions taken under 19 Administrative Code 3.8.

34.10 Orientation on Title IX Policy

The College shall require each entering freshmen or undergraduate transfer student to attend an orientation on the College's sexual harassment, sexual assault, dating violence, and stalking policy before the first semester or term of enrollment at the College. The College shall establish the format and content of the orientation. The orientation may be provided online and the College shall include the statements described by 19 Administrative Code 3.4(a)(5). Education Code 51.2829(c); 19 TAC 3.4(c)

34.11 Prevention and Outreach Program

The College shall develop and implement a comprehensive prevention and outreach program on sexual harassment, sexual assault, dating violence, and stalking for enrolled students and employees of the College. The program must:

- Address a range of strategies to prevent sexual harassment, sexual assault, dating violence, and stalking, including a public awareness campaign, a victim empowerment program, primary prevention, bystander intervention, and risk reduction; and
- Provide students with information regarding the protocol for reporting incidents of sexual harassment, sexual assault, dating violence, and stalking, including the name, office location, and contact information of the College's Title IX Coordinator, by:
 - Emailing the information to each student at the beginning of each semester or other academic term; and
 - Including the information in the institution's orientation, which may be provided online.

34.12 Equal Access

The College shall, to the greatest extent practicable, ensure equal access for students enrolled at or employees of the institution who are people with disabilities. The College shall make reasonable efforts to consult with the disability services office of the institution, advocacy groups for people with disabilities, and other relevant stakeholders to assist the institution with complying with the College's duties under this section.

SECTION FIVE: DEFINITIONS

5.01 For purposes of Title IX compliance at Angelina College, the definitions below apply. Some of these terms are also defined under federal and/or Texas State law.

Anecdotes: An account regarded as unreliable or hearsay; a brief, revealing account of an individual person or an incident, a story with a point, such as to communicate an abstract idea about a person, place, or thing through the concrete details of a short narrative.

Complaint: A signed document or other reports, including verbal reports, alleging a violation of this policy.

Complainant: A person who submits a complaint alleging a violation of this policy, or is identified as the person who has allegedly experienced a Title IX-related incident.

Consent: A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not

imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent.

Consent is not effective if it results from (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation, or (f) any other factor that would eliminate an individual's ability to exercise his/her own free will to choose whether or not to engage in sexual activity.

An individual's manner of dress or the existence of a current or previous dating or sexual relationship between two or more individuals does not, in and of itself, constitute consent to engage in a particular sexual activity. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.

Dating Violence: Abuse or violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship. Dating violence includes but is not limited to, sexual or physical abuse or the threat of such abuse.

Decision-maker: reviews all the evidence and prepares an impartial written responsibility determination as to whether the alleged conduct occurred and provides an opportunity for the parties and their representatives to prepare written questions to be answered by the other party. The decision-maker shall not be the Title IX Coordinator or investigator.

Domestic Violence: Abuse or violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person with whom the complainant is cohabitating (or has cohabited) with a spouse or intimate partner, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the State of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Texas.

Fondling: The touching of the private body parts (including, but not limited to the genitalia, anus, groin, breast, inner thigh, or buttocks) of another person for the purpose of sexual gratification, without the consent of the complainant, including instances

where the complainant is incapable of giving consent because of the complainant's age or because of the complainant's temporary or permanent mental incapacity.

Formal Complaint: a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the college investigate the allegation of sexual harassment.

Incapacitation: A state of being that prevents an individual from having the capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.

Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Investigator: the person who carries out the investigation after the formal complaint is filed and conducts interviews of the witnesses, collects and documents evidence, and drafts an investigative report.

Respondent: The person designated to respond to a complaint. Generally, the respondent is the person alleged to be responsible for the prohibited conduct alleged in a complaint.

Responsible Employee: Pursuant to Title IX, a "responsible employee" is a College employee who has the authority to take action to redress an alleged violation of this policy and who has been given the duty of reporting such allegations to the College Title IX Coordinator or designee, or an employee whom an individual could reasonably believe has this authority or duty. At Angelina College, responsible employees include, but are not limited to:

- Administrators
- Employees assigned an apartment in College student housing
- Student success coaches
- Coaches, and other athletic staff who interact directly with students
- Faculty members
- Police officers
- All supervisory staff

Responsible employees have a **duty** to promptly report incidents of sex discrimination, sexual harassment, sexual assault, sexual misconduct, interpersonal violence, and stalking to the College Title IX Coordinator. Responsible Employees are not confidential reporting resources.

Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant.

Retaliation: Any action that adversely affects the academic, employment, or another institutional status of a student or employee of the College, visitor, or applicant for admission to or employment with the College, because an individual has, in good faith, brought a complaint under this policy, opposed an unlawful practice, participated in an investigation, or requested accommodations. Examples of retaliation include but are not limited to denial of promotion, non-selection/refusal to hire, denial of job benefits, demotion, suspension, discharge, threats, reprimands, negative evaluations, harassment, or other adverse treatment that is likely to deter reasonable people from pursuing their rights. Retaliation is strictly prohibited and will not be tolerated.

Sex Discrimination: Conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects the individual or group's employment or education on the basis of sex (including gender).

Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape.

Sexual Harassment: conduct on the basis of sex that satisfies one or more of the following:

- An employee of the recipient conditioning the provision of aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct, otherwise known as "quid pro quo";
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
- "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Sexual harassment is a form of sex discrimination that can occur when:

- The submission to unwelcome physical conduct of a sexual nature, or to unwelcome requests for sexual favors or other verbal conduct of a sexual nature, is made as an implicit or explicit term or condition of employment or education;
- The submission to or rejection of unwelcome physical conduct of a sexual nature, or unwelcome requests for sexual favors or other verbal conduct of a sexual nature, is used as a basis for academic or employment decisions or

evaluations;

- Unwelcome physical acts of a sexual nature, or unwelcome requests for sexual favors or other verbal conduct of a sexual nature, that have the effect of creating an objectively hostile environment that substantially interferes with employment or education on the basis of sex (including gender); or
- Such conduct is intentionally directed towards a specific individual and has the purpose or effect of unreasonably interfering with that individual's education, employment, or participation in College activities, or creating an intimidating, hostile, or offensive atmosphere.

Sexual harassment may include:

- Sexual violence, as defined under the Texas Penal Code, includes rape, sexual assault, sexual battery, and sexual coercion.
- Physical conduct that, depending on the totality of the circumstances present, including frequency and severity, may constitute sexual harassment includes but is not limited to (a) unwelcome intentional touching; or (b) deliberate physical interference with or restriction of movement.
- Verbal conduct, including oral, written, or symbolic expression, that, depending on the totality of the circumstances present, including frequency and severity, may constitute sexual harassment includes, but is not limited to:
 - o explicit or implicit propositions to engage in sexual activity;
 - o gratuitous comments, jokes, questions, anecdotes, or remarks of a sexual nature about clothing or bodies;
 - o gratuitous remarks about sexual activities or speculation about sexual experiences;
 - o persistent, unwanted sexual or romantic attention;
 - o subtle or overt pressure for sexual favors;
 - o exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars, or other materials; or
 - o deliberate, repeated humiliation, or intimidation based upon sex.

This applies only to verbal conduct that is not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea.

Sexual Misconduct: Behavior or conduct of a sexual nature that is unprofessional and/or inappropriate for the educational and/or working environment. Behaviors that may constitute sexual misconduct include, but are not limited to:

- repeatedly engaging in sexually oriented conversations, comments, or horseplay, including the use of language or the telling of jokes or anecdotes of a sexual nature

in the workplace, office, or classroom, even if such conduct is not objected to by those present;

- gratuitous use of sexually oriented materials not directly related to the subject matter of a class, course, or meeting, even if not objected to by those present;
- failure to observe the appropriate boundaries of the supervisor/subordinate or faculty member/student relationship, including the participation of a supervisor, teacher, advisor, or coach in an unreported consensual romantic or sexual relationship with a subordinate employee or student; or
- engaging in any form of sexual exploitation. Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex or knowingly transmitting a sexually transmitted disease (STD) to another.

Stalking: A course of conduct directed at a specific person that would cause a reasonable person to fear for the person's own safety or the safety of others or would cause that person to suffer substantial emotional distress. A "course of conduct" means two or more acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens or communicates to or about a person or interferes with a person's property. A report must be filed on the first or an earlier occurrence and upon a second occurrence, a formal complaint can be filed. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the complainant. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Statutory Rape: Sexual intercourse with a person who is younger than 17 years of age and is not a spouse of the respondent.

Symbolic Expression: A means of representing semi-structured data in human-readable text form, mostly composed of symbols and lists and extensively used in the Lisp programming language.

Title IX Coordinator: the individual designated by the college who has a responsibility to coordinate compliance with Title IX of the Education Amendments of 1972 and the Title VII of the Civil Rights Act of 1964. The Title IX Coordinator's responsibilities include, but are not limited to: developing materials and ensuring professional development occurs for staff involved in Title IX compliance; creating systems to centralize records; gathering relevant data; contacting the complainant (and/or parents

or guardians, if applicable) once the college has actual knowledge of alleged sexual harassment; coordinating the implementation of supportive measures; signing a formal complaint to initiate a complaint process; and ensuring any remedies are implemented.

The Title IX Coordinator is responsible for updating and reviewing this policy. Policy reviews are made in accordance with the Office of Institutional Effectiveness Policy Tracking document.

Document History:
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