

Interim Grievance Procedures for Sex-Based Harassment Complaints for Students and Employees

August 1, 2024

I. Effective Date and Changes to Procedure Based on Court Rulings and Legal Challenges or Changes in Law or Regulation

This Grievance Procedure applies to incidents that occur on or after August 1, 2024. Any incidents reported under this Grievance Procedure that occurred on or before July 31, 2024 will be processed through the institution's Maine College of Art & Design's Sexual Misconduct, Anti-Discrimination and Anti-Harassment Policy and Procedures and Services.

Should any portion of the 2024 Title IX Final Rule (89 Fed. Reg. 33474 (Apr. 29, 2024)), be stayed or held invalid by a court of law, or if the 2024 Title IX Final Rule is withdrawn or modified to not require elements of this Grievance Procedure, the Grievance Procedures in their entirety, or the invalidated elements of this Procedure, they will be deemed revoked as of the publication date of the opinion or order from the Court and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by the date of the opinion or order publication by the Court. If this Procedure is revoked in this manner, any conduct covered under this Procedure shall be investigated and adjudicated under the previous 2020 Title IX Grievance Policy, Student Code of Responsibility, and/or Sexual Misconduct, Anti-Discrimination and Anti-Harassment Policy and Procedures and Services. Maine College of Art & Design will update this Grievance Procedure as soon as practicable to reflect any court rulings or changes that invalidate parts of the Grievance Procedure, if applicable. Maine College of Art & Design's nondiscrimination policy and grievance procedures can be located at <https://meca.edu/student-life/sexual-misconduct/>.

II. Scope of Procedure

Sex-Based Harassment is considered discrimination on the basis of sex if it includes harassment due to actual or perceived sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and/or gender identity.

This Grievance Procedure applies only to sex-based harassment involving a student Complainant or student Respondent.

III. Jurisdiction of Procedure

Maine College of Art & Design's Title IX Coordinator will determine if this Grievance Procedure applies to a Complaint. This Grievance Procedure will apply when the following elements are met, in the reasonable determination of the Title IX Coordinator:

- The conduct alleged occurred on or after August 1, 2024;
- The conduct alleged occurred in the United States;
- The conduct alleged occurred in Maine College of Art & Design's Education Program or Activity; and

- The conduct alleged, if true, would constitute Sex-Based Harassment as defined in this Grievance Procedure.

NOTE: Maine College of Art & Design has an obligation to 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 Maine College of Art & Design's Education Program or Activity, or outside of the United States. Maine College of Art & Design's Title IX Coordinator will work with all Complaints to assess such Complaints that may fall under these criteria, and direct to appropriate College Policies and Procedures that may apply if this Grievance Procedure does not. Maine College of Art & Design will communicate all such decisions in writing to the Complainant. Any such dismissals shall be subject to appropriate appeal rights under this Grievance Procedure as outlined in the Dismissals section.

Conduct that occurs under Maine College of Art & Design'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 Maine College of Art & Design, and conduct that is subject to Maine College of Art & Design's disciplinary authority under Maine College of Art & Design's Student Conduct Code.

If all elements of jurisdiction are met, Maine College of Art & Design will investigate the allegations according to this Grievance Procedure as appropriate, unless informal resolution is pursued or unless there are grounds for dismissal of the Complaint.

IV. Non-Discrimination in Application

The requirements and protections of this Grievance Procedure apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by applicable federal, state or local law. All requirements and protections are equitably provided to individuals regardless of such protected status(es) or status as a Complainant, Respondent, or Witness. Individuals who wish to file a Complaint about the institution's policy or process may contact the U.S. Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>.

V. Definitions

1. *Admission* means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by Maine College of Art & Design.
2. *Consent* is the affirmative, unambiguous and voluntary agreement to engage in a specific sexual activity during a sexual encounter. Consent given at the start of sexual activity may not be understood to apply to each individual sexual action during the encounter. Each party must clearly consent to each act during the sexual encounter.
 - Consent may not be inferred from silence.
 - Consent is not voluntary if it is induced by force, threat or deception.

- An individual who is incapacitated by drugs or alcohol, who is asleep or unconscious, or otherwise physically or mentally incapacitated is not capable of consent and consent may never be assumed. Acts of sexual misconduct and the failure to obtain consent are never excused by incapacitation because of drug or alcohol consumption.
- Consent may be withdrawn at any time and if it is, sexual activity of any kind must stop. Consent to one form of sexual activity does not constitute consent to all forms of sexual activity, and consent to sexual activity with one person does not equal consent to engage in sexual activity with anyone else.
- Maine law on consent: Minors who are 14 or 15 cannot legally consent to sexual activity if the other party is at least five (5) years older. Minors under 14 can never legally consent to sexual activity. Such sexual acts are felonies under Maine law.

3. *Complainant* means:

(1) a Student or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment as defined in this Grievance Procedure and who was participating or attempting to participate in Maine College of Art & Design's Education Program or Activity; or

(2) a person other than a Student or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment under this Grievance Procedure and who was participating or attempting to participate in Maine College of Art & Design's Education Program or Activity at the time of the alleged Sex-Based Harassment.

4. *Complaint* means an oral or written request to Maine College of Art & Design that objectively can be understood as a request for Maine College of Art & Design to investigate and make a determination about alleged Sex-Based Harassment at the institution.

5. *Confidential Employee* means:

(1) an employee of Maine College of Art & Design whose communications are privileged under Federal or State law. The employee's confidential status 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 Maine College of Art & Design whom the institution has designated as confidential for the purpose of providing services to persons related to Sex-Based Harassment. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about Sex-Based Harassment in connection with providing those services; or

(3) an employee of Maine College of Art & Design who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about Sex-Based Harassment. The employee's confidential status is only with respect to information received while conducting the study.

6. *Disciplinary Sanctions* means consequences imposed on a Respondent following a determination under this Grievance Procedure that the Respondent violated Maine College of Art & Design's prohibition Sex-Based Harassment.
7. *Education Program or Activity* means any academic, extracurricular, research, occupational training or other Education Program or Activity operated by Maine College of Art & Design that receives Federal financial assistance.
8. *Party* means Complainant or Respondent.
9. *Peer Retaliation* means Retaliation by a Student against another Student.
10. *Relevant* means related to the allegations of Sex-Based Harassment under investigation as part of this Grievance Procedure. Questions are Relevant when they seek evidence that may aid in showing whether the alleged Sex-Based Harassment occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether the alleged Sex-Based Harassment occurred.
11. *Remedies* means measures provided, as appropriate, to a Complainant or any other person Maine College of Art & Design identifies as having had their equal access to Maine College of Art & Design's Education Program or Activity limited or denied by Sex-Based Harassment. These measures are provided to restore or preserve that person's access to Maine College of Art & Design's Education Program or Activity after Maine College of Art & Design determines that Sex-Based Harassment occurred.
12. *Respondent* means a person who is alleged to have violated Maine College of Art & Design's prohibition on Sex-Based Harassment.
13. *Retaliation* means intimidation, threats, coercion, or discrimination by any person, by Maine College of Art & Design, a Student, or an employee or other person authorized by Maine College of Art & Design to provide aid, benefit, or service under Maine College of Art & Design's Education Program or Activity, for the purpose of interfering with any right or privileged 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 hearing under this Grievance Procedure including an informal resolution process.
14. *Sex-Based Harassment* means sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:

(1) *Quid pro quo harassment*. An employee, agent or other person authorized by Maine College of Art & Design'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 Maine College of Art & Design's Education Program or Activity (i.e., creates a Hostile Environment). Whether a Hostile Environment has been created is a fact-specific inquiry that includes consideration of the following: (i) the degree to which the conduct affected the Complainant's ability to access Maine College of Art & Design's Education Program or Activity; (ii) the type, frequency, and duration of the conduct; (iii) the Parties' ages, roles within Maine College of Art & Design's Education Program or Activity, previous interactions and other factors about each Party that may be Relevant to evaluating the effects of the conduct; (iv) the location of the conduct and the context in which the conduct occurred; and (v) other Sex-Based Harassment in Maine College of Art & Design's Education Program or Activity;

(3) *Sexual Assault* (as defined in the Clery Act, 20 U.S.C. 1092(f)) means any sexual act directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent;

(4) *Dating Violence* (as defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act) means any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

(5) *Domestic Violence* means any felony or misdemeanor crimes committed by a person who: (A) is a current or former partner of the victim under the family or Domestic Violence laws of Maine, or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shared a child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or Domestic Violence laws of Maine; or

(6) *Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person's safety or the safety of others; or (B) suffer substantial emotional distress.

15. *Student* means a person who has gained Admission.

16. *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 to: (1) restore or preserve that Party's access to Maine College of Art & Design's Education Program or Activity, including measures that are designed to protect the safety of the Parties or Maine College of Art & Design's educational environment; or (2) provide support during Maine College of Art & Design's Grievance Procedure for Sex-Based Harassment or during the informal resolution process.

VI. Disability Accommodations

Generally

This Grievance Procedure does not alter any institutional obligations under applicable federal, state, or local disability laws, including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, and the Maine Human Rights Act among others. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Procedure that do not fundamentally alter the Procedure. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

Requests for Reasonable Accommodations During the Title IX Grievance Procedure

If the Complainant or Respondent discloses a disability, Melvin D. Adams III, Ed.D., Title IX Coordinator or designee may consult, as appropriate, with Disability Services to provide support to Students with disabilities to determine how to comply with applicable law including, without limitation, Section 504 of the Rehabilitation Act of 1973 in the implementation of any Supportive Measures, or any other reasonable accommodations requested during the Grievance Procedure.

VII. Basic Requirements of the Grievance Procedure

Maine College of Art & Design is required to:

- Treat Complainants and Respondents equitably;
- Ensure that any person designated by Maine College of Art & Design as a Title IX Coordinator, investigator, or decisionmaker does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent;
- Establish reasonably prompt timeframes for the major stages of this Grievance Procedure, including a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the Parties that includes the reason for the delay;

- Ensure that reasonable steps to protect the privacy of the Parties and witnesses during the pendency of the Grievance Procedure are taken, provided that the steps do not restrict the abilities of the Parties to obtain and present evidence, including by speaking to witnesses (as long as such does not result in Retaliation), consult with their family members, confidential resources, or advisors, or otherwise prepare for or participate in this Grievance Procedure;
- Ensure an objective evaluation of all evidence that is Relevant and not otherwise impermissible under this procedure, including both inculpatory and exculpatory evidence, and provide that credibility determinations must not be based on a person's status as a Complainant, Respondent or Witness;
- Exclude impermissible evidence from consideration as defined in the Grievance Procedure; and
- Clearly articulate principles for how Maine College of Art & Design will determine which policies and procedures apply if not all such Complaints are handled under this institutional Grievance Procedure.

The decisionmaker may be the same person as the Title IX Coordinator or investigator as allowed by the 2024 Title IX Regulations; no inference of bias or conflict of interest can be drawn solely because the decisionmaker is the same person as the Title IX Coordinator or investigator in a case. The Title IX Coordinator may assign investigation and/or decisionmaker responsibility to a trained internal or external designee.

VIII. Reporting Sex-Based Harassment to the Institution

Non-Confidential Reports

Any person may report sex discrimination, including Sex-Based Harassment (whether or not the person reporting is the person alleged to be the victim of the conduct that may constitute sex discrimination or Sex-Based 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.

Contact Information for the Title IX Coordinator at Maine College of Art & Design:

Name: Melvin D. Adams III, Ed.D.

Title: Title IX Coordinator and Dean of Student Life

Office Address: 522 Congress Portland, ME 04101

Email Address: titleix@meca.edu

Telephone Number: (207) 699-5035

Confidential Reports

The following officials at Maine College of Art & Design will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited by Title IX:

- Title IX Coordinator or designee(s);
- Officials with Authority to institute corrective measures under Title IX;

- all other employees at Maine College of Art & Design that are not designated as confidential resources must report information to the Title IX Coordinator at titleix@meca.edu; completing the Title IX form located at <https://meca.edu/student-life/sexual-misconduct/>; or calling (207) 699-5035.

The following officials at Maine College of Art & Design may provide confidentiality:

- Emma Gifford, Mental Health Counselor at counseling@meca.edu and the following external organizations serve as confidential resources: Sexual Assault Helpline: 1-800-871-7741. In addition, the Maine Medical Center and Mercy Hospitals can provide confidential medical care.
- The Maine Coalition to End Domestic Violence*: Offers 24-hour free confidential support, advocacy, and resources for those affected by relationship abuse available by phone at 1.866.834.4357 and on their website.
- The Maine Coalition Against Sexual Assault*: Offers 24-hour free confidential support, advocacy, and resources for anyone affected by sexual assault, stalking, or sexual harassment available at 1.800.871.7741 and on their website.
- Sexual Assault Response Services of Southern Maine*: Offers 24-hour free confidential crisis response, support, and advocacy for anyone affected by sexual assault, stalking, or sexual harassment at 1.800.313.9900 or at their website.
- Maine Medical Center Emergency Department*: 662 Bramhall Street, 207.622.0111.

IX. Supportive and Interim Measures

Providing Supportive Measures

Complainants who report allegations of Sex-Based Harassment have the right to receive Supportive Measures from Maine College of Art & Design regardless of whether they file a Complaint. Supportive Measures are non-disciplinary and non-punitive. Supportive Measures may vary depending upon what is reasonably available at Maine College of Art & Design.

As appropriate, Supportive Measures may include without limitation:

- Counseling services
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services, as available
- Restrictions on contact applied to one or more Parties (no contact orders)
- Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative
- Leaves of absence
- Increased security and monitoring of certain areas of the campus

- Training and education programs related to Sex-Based Harassment

Supportive Measures must not unreasonably burden either Party and must be designed to protect the safety of the Parties or Maine College of Art & Design's educational environment, or to provide support during Maine College of Art & Design's Sex-Based Harassment grievance procedure under this policy or during informal resolution under this procedure.

Maine College of Art & Design may modify or terminate Supportive Measures at the conclusion of the grievance procedure or at the conclusion of the informal resolution process, or may continue them beyond that point within Maine College of Art & Design's discretion.

Maine College of Art & Design will not disclose information about any Supportive Measures to persons other than the person to whom they apply, including informing one Party of Supportive Measures provided to another Party, unless necessary to provide the supportive measure or restore or preserve a Party's access to Maine College of Art & Design's education program or activity, or there is an exception that applies, such as:

- Maine College of Art & Design has obtained prior written consent from a person with the legal right to consent to the disclosure;
- When the information is disclosed to an appropriate third Party with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- To carry out the purpose of the policy when it is necessary to address conduct that reasonably may constitute Sex-Based Harassment under Title IX in Maine College of Art & Design's education program or activity;
- As required by Federal law, federal regulations, or the terms and conditions of a federal award; or
- To the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law or when permitted under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g, or its implementing regulations, 34 CFR Part 99).

Process for Review of Supportive Measures

Maine College of Art & Design provides for a Complainant or Respondent to seek modification or reversal of Maine College of Art & Design's decision to provide, deny, modify or terminate a Supportive Measure. Grounds for challenge of Supportive Measures include, but are not limited to:

- Whether a Supportive Measure is reasonably burdensome;
- Whether a Supportive Measure is reasonably available;
- Whether a Supportive Measure is being imposed for punitive or disciplinary reasons;
- Whether the Supportive Measure is being imposed without fee or charge; and
- Whether the Supportive Measure is effective in meeting the purposes for which it is intended, including to restore or preserve access to the Education Program or Activity, provide safety, or provide support during the Grievance Procedure.

Request(s) for a modification or reversal of a supportive measure must be timely and should be submitted within ten business days. Maine College of Art & Design will conduct a fact specific inquiry into timeliness.

This review will be conducted by an impartial employee of Maine College of Art & Design, who did not make the challenged decision on the original supportive measure request. The impartial employee of Maine College of Art & Design who makes this determination will have the authority to modify or reverse the decision if that impartial employee determines that the decision to provide, deny, modify or terminate the supportive measure was inconsistent with the procedures as outlined above for providing Supportive Measures in accordance with the Title IX regulations.

Parties are only allowed to challenge their own individual Supportive Measures. Challenges by one Party will not be heard to Supportive Measures afforded to the opposite Party, unless that supportive measure directly impacts the Party making such challenge (i.e., two-way no contact orders).

Emergency Removal

Maine College of Art & Design retains the authority to remove a Respondent from all or part of Maine College of Art & Design's education program or activity on an emergency basis, where Maine College of Art & Design (1) undertakes an individualized safety and risk analysis, and (2) determines that an imminent and serious threat to the health or safety of a Complainant or any Students, employees, or other persons arising from the allegations of Sex-Based Harassment justifies removal.

Maine College of Art & Design will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal. The Respondent may challenge the decision to the assigned decisionmaker as outlined in the official letter. The Respondent will have five business days to submit a written challenge to the decisionmaker. The decisionmaker will review the appeal and make a decision within five business days. The decisionmaker will notify the Respondent and the Title IX Coordinator of the decision in writing. This is the final appeal.

The decisionmaker who hears a challenge to an emergency removal must not be involved in any decision regarding responsibility or appeal of a determination.

Emergency removals will not be considered Relevant evidence that can be considered in reaching a determination of whether Sex-Based Harassment occurred.

Administrative Leave

Maine College of Art & Design retains the authority to place a non-Student employee Respondent on administrative leave during the Title IX Grievance Procedures, consistent with the respective Faculty or Staff/Employee handbooks.

Note on Student employees: when a Complainant or Respondent is both a Student and an employee of Maine College of Art & Design, Maine College of Art & Design must make a fact-specific inquiry to determine whether these procedures apply to that Student employee. Maine College of Art & Design will consider if the Complainant or Respondent's primary relationship with Maine College of Art & Design is to receive an education and whether the alleged Sex-Based Harassment occurred while the Party was performing employment-related work.

X. The Title IX Grievance Procedure for Allegations of Sex-Based Harassment

A. Filing a Complaint

Who can make a Complaint?

- A Complainant (as defined in Section V(3) of this policy); or
- The Title IX Coordinator. *Note on Title IX Coordinator initiated Complaints:* In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator must determine whether to initiate a Complaint of Sex-Based Harassment. This determination is fact-specific, and the Title IX Coordinator must consider:
 - The Complainant's request not to proceed with the initiation of a Complaint;
 - The Complainant's reasonable safety concerns regarding initiation of a Complaint;
 - The risk that additional acts of Sex-Based Harassment would occur if a Complaint is not initiated;
 - The severity of the alleged Sex-Based Harassment, including whether the Sex-Based Harassment, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the Sex-Based Harassment and prevent its recurrence;
 - The age and relationship of the Parties, including whether the Respondent is an employee of the recipient;
 - The scope of the alleged Sex-Based Harassment, including information suggesting a pattern, ongoing Sex-Based Harassment, or Sex-Based Harassment alleged to have impacted multiple individuals;
 - The availability of evidence to assist a decisionmaker in determining whether Sex-Based Harassment occurred; and
 - Whether Maine College of Art & Design could end the alleged Sex-Based Harassment and prevent its recurrence without initiating these grievance procedures.

If after considering these and other Relevant 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 Maine College of Art & Design from ensuring equal access on the

basis of sex to its education program or activity, the Title IX Coordinator may initiate a Complaint.

If the Title IX Coordinator does initiate the Complaint after making this determination, the Title IX Coordinator must notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures as listed in Section VI of these procedures.

Is there a particular format that the Complaint needs to be in?

As defined in IV(4) of these procedures, a Complaint can be an oral or written request to Maine College of Art & Design that objectively can be understood as a request for Maine College of Art & Design to investigate and make a determination about alleged Sex-Based Harassment at the institution.

Who can I report a Complaint to?

Any reports of Sex-Based Harassment may be made directly to the Title IX Coordinator, whose contact information is listed at the beginning of this Grievance Procedure. There are other ways in which a Party may report a Complaint.

Maine College of Art & Design requires that any employee who is not a Confidential Employee and who either has authority to institute corrective measures on behalf of Maine College of Art & Design or has responsibility for administrative leadership, teaching, or advising in Maine College of Art & Design's education program or activity must notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination, including Sex-Based Harassment.

All other employees at Maine College of Art & Design who are not Confidential Employees and are not employees as identified above are required to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex-discrimination, including Sex-Based.

Note: If an employee has personally been subject to conduct that reasonably may constitute sex discrimination under Title IX or any institutional policy or this Grievance Procedure, these requirements do not apply to an employee reporting a personal Complaint.

What is the timeframe for Maine College of Art & Design to evaluate if the Title IX Coordinator is initiating an investigation under this Grievance Procedure?

The Title IX Coordinator must evaluate whether the Complaint falls under this Grievance Procedure ten business days after the Complaint is made, and must issue

the Notice of Allegations as soon as practicable after the Complaint is evaluated. If there are any delays or extensions, the Title IX Coordinator must appropriately notice the Parties in writing, on a case-by-case basis, with good cause and the rationale for the extension or delay.

Can I make a Complaint and request initiation of the Grievance Procedure even if I have made a complaint to law enforcement?

Yes. Maine College of Art & Design has an obligation to appropriately evaluate all Complaints, regardless of whether there is a concurrent Complaint before law enforcement. This process is an administrative process that is different from the criminal justice process.

B. Multi-Party Situations and Consolidation of Complaints

Maine College of Art & Design may consolidate Complaints alleging Sex-Based Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of Sex-Based Harassment arise out of the same facts or circumstances.

Maine College of Art & Design can consider factors when making this fact-specific determination, which include, but are not limited to:

- The facts and circumstances of the particular Complaints when deciding whether to consolidate, including the toll of separate proceedings on the Parties; and
- Any risks to the fairness of the investigation or outcome.

C. Dismissal of a Complaint

Grounds for Dismissal

Maine College of Art & Design may dismiss a Complaint of Sex-Based Harassment for any of the following reasons:

- Maine College of Art & Design is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in Maine College of Art & Design's education program or activity and is not employed by Maine College of Art & Design;
- The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint through this Grievance Procedure, and Maine College of Art & Design determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Sex-Based Harassment under Title IX or this Grievance Procedure even if proven; or

- Maine College of Art & Design determines that the conduct alleged in the Complaint, even if proven, would not constitute Sex-Based Harassment under Title IX or these procedures. Note: Maine College of Art & Design must make reasonable efforts to clarify the allegations with the Complainant before dismissing under this basis.

Notice of Dismissal

If Maine College of Art & Design dismisses a Complaint, Maine College of Art & Design is required to promptly notify the Complainant of the basis for dismissal.

If the dismissal of the Complaint occurs before a Notice of Allegations is issued to the Respondent, the Title IX Coordinator does not need to notice the Respondent at that time. However, if the Complainant appeals the dismissal, the Respondent will need to be noticed of the Complaint allegations and given an opportunity to respond to the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then Maine College of Art & Design must notify the Respondent and Complainant of the dismissal and the basis for the dismissal simultaneously in writing.

Appeal rights must also be outlined in any notification of dismissal of a Complaint, as included below under *Appeal of Dismissals*.

Appeals of Dismissals

Maine College of Art & Design must notify the Complainant that a dismissal may be appealed and provide the Complainant with an opportunity appeal the dismissal of a Complaint on the following grounds:

- *Procedural irregularity*: procedural irregularity that affected the outcome of the matter (i.e., a failure to follow Maine College of Art & Design's own policy to a degree that had material effect on the outcome of the matter);
- *New evidence*: New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-Based Harassment occurred or dismissal of the Complaint was made; and
- *Bias or Conflict of Interest*: The Title IX Coordinator, investigator(s), or decisionmaker(s) 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.

If the dismissal occurs after the Respondent has been notified of the allegations, then Maine College of Art & Design must also notify the Respondent that the dismissal may be appealed on the grounds set out above.

The submission of appeal stays (or pauses) any pending sanctions for the pendency of an appeal.

Supportive Measures and remote learning opportunities remain available during the pendency of the appeal.

If a Party appeals, the institution will as soon as practicable notify the other Party in writing of the appeal, however the time for appeal shall be offered equitably to all Parties and shall not be extended for any Party solely because the other Party filed an appeal.

Appeals may be no longer than five pages including attachments. Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, 12-point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the Party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by the Vice President of Academic Affairs for faculty, the Executive Vice President of Academic Affairs and Dean of the College for faculty, and Dean of Student Life or designee for students who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decisionmaker in the same matter. Outcome of appeal will be provided in writing simultaneously to both Parties, and include rationale for the decision.

D. Allegations Potentially Falling Under Two Policies (*select one*):

Option 1: If the alleged conduct, if true, includes conduct that would constitute covered Sex-Based Harassment and conduct that would not constitute covered Sex-Based Harassment, the Title IX Grievance Process will be applied in the investigation and adjudication of all of the allegations.

Option 2: If the alleged conduct, if true, includes conduct that would constitute covered Sex-Based Harassment and conduct that would not constitute covered Sex-Based Harassment, the Title IX Grievance Process will be applied to investigation and adjudication of only the allegations that constitute covered Sex-Based Harassment.

E. Notice of Allegations

Upon initiating Maine College of Art & Design's Grievance Procedure, the Title IX Coordinator shall provide a Notice of Allegations in writing to the Parties whose identities are known. Such notice will occur as soon as practicable after Maine College of Art & Design receives a Complaint, if there are no extenuating circumstances. Maine College of Art & Design will provide the Notice of Allegations within ten days after receiving a Complaint.

What does the Notice of Allegations Include?

The written Notice of Allegations must include:

- Maine College of Art & Design’s Grievance Procedure and Maine College of Art & Design’s Informal Resolution process;
- Sufficient information available at the time of the issuance of the Notice of Allegations to allow the Parties to respond to the allegations, which includes the identities of the Parties involved in the incident(s), the conduct alleged to constitute Sex-Based Harassment under the Grievance Procedure, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to Maine College of Art & Design;
 - Allegations can include any of the following charges:
 - *Sex-Based Harassment*: sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:
 - A. *Quid pro quo harassment*. An employee, agent or other person authorized by Maine College of Art & Design ’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;
 - B. *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 Maine College of Art & Design ’s education program or activity (i.e., creates a Hostile Environment). Whether a Hostile Environment has been created is a fact-specific inquiry that includes consideration of the following: (i) the degree to which the conduct affected the Complainant’s ability to access Maine College of Art & Design ’s education program or activity; (ii) the type, frequency, and duration of the conduct; (iii) the Parties’ ages, roles within Maine College of Art & Design’s education program or activity, previous interactions and other factors about each Party that may be Relevant to evaluating the effects of the conduct; (iv) the location of the conduct and the context in which the conduct occurred; and (v) other Sex-Based Harassment in Maine College of Art & Design’s education program or activity;
 - *Sexual Assault*: as defined in the Clery Act, meaning any sexual act directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent;
 - *Dating Violence*: as defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act, is any violence committed by a person: (A) who is or has

been in a social relationship of a romantic or intimate nature with the victim; and (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) the type of relationship; and (iii) The frequency of interaction between the persons involved in the relationship.

- *Domestic Violence*: any felony or misdemeanor crimes committed by a person who: (A) is a current or former partner of the victim under the family or Domestic Violence laws of Maine, or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shared a child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or Domestic Violence laws of Maine.
 - *Stalking*: engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person's safety or the safety of others; or (B) suffer substantial emotional distress.
- A statement that the Parties are entitled to an equal opportunity to access the Relevant and not otherwise impermissible evidence/
 - A statement that the Respondent is presumed not responsible for the alleged Sex-Based Harassment until a determination is made at the conclusion of Maine College of Art & Design's Grievance Procedure and that prior to the determination, the Parties will have an opportunity to present Relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
 - Parties may have an advisor of their choice, and that the advisor may be, but is not required to be, an attorney;
 - Maine College of Art & Design 's code of conduct prohibits knowingly making false statements or knowingly submitting false information during Maine College of Art & Design's Grievance Procedure;] and
 - If, in the course of an investigation, Maine College of Art & Design decides to investigate additional allegations of Sex-Based Harassment by the Respondent toward the Complainant that are not included in the original written Notice of Allegations provided, Maine College of Art & Design is required to provide written notice of any additional allegations to the Parties whose identities are known.

What if Maine College of Art & Design decides to investigate additional allegations of Sex-Based Harassment?

If, in the course of an investigation, Maine College of Art & Design decides to investigate additional allegations of Sex-Based Harassment by the Respondent toward the Complainant that are not included in the original issued written Notice of Allegations, or that are included in a Complaint that is consolidated under this

Grievance Procedure, Maine College of Art & Design shall provide notice of the additional allegations to the Parties whose identities are known.

What if I have safety concerns about a Notice of Allegations being issued to a Respondent?

To the extent that Maine College of Art & Design has reasonable concerns for the safety of any person as a result of providing a written Notice of Allegations, Maine College of Art & Design through the Title IX Coordinator, may reasonably delay providing the written Notice of Allegations in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

F. Advisor of Choice and Participation of Advisor of Choice

A Party's advisor of choice may accompany the Party to any meeting or proceeding, and that Maine College of Art & Design cannot limit the choice of who that advisor may be or their presence for the Parties in any meeting or proceeding unless such advisor does not follow Maine College of Art & Design's established rules of decorum and rules around participation.

G. Investigation

General Rules of Investigations

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will perform an investigation of the conduct alleged to constitute Sex-Based Harassment in a reasonably prompt timeframe, after issuing the Notice of Allegations.

Maine College of Art & Design, and not the Parties, have the burden to conduct an investigation that gathers sufficient evidence to determine whether Sex-Based Harassment occurred under this Grievance Procedure. This burden does not rest with either Party, and either Party may decide not to share their account of what occurred, or may decide not to participate in the investigation or hearing. This does not shift the burden of proof away from Maine College of Art & Design and does not indicate responsibility.

Maine College of Art & Design cannot access, consider, or disclose medical records without a waiver from the Party (or parent, if applicable) to whom the records belong, or of whom the records include information. Maine College of Art & Design will provide an equal opportunity for the Parties to present witnesses, including fact and expert witnesses, and other inculpatory or exculpatory evidence, as described below.

Notice of participation

Maine College of Art & Design will provide written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the Party to prepare to participate, if a Party is invited or expected to participate in any such meeting or proceeding.

Advisors of Choice and Participation of Advisors of Choice

Maine College of Art & Design will provide the Parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of the advisor for the Complainant or Respondent in any meeting or proceeding.

Advisors are permitted to support either the respondent or complainant throughout the process. Advisors are allowed to provide support, direction, and ask questions along with reviewing any relevant materials with the individual they are advising. Information gathered during the process is confidential and not allowed to be shared with individual(s) outside of the process. Advisors and all parties must follow rules of decorum.

The following Rules of Decorum are to be observed in the hearing and applied equally to all parties (meaning the complainant and respondent) and advisors:

1. Questions must be conveyed in a neutral tone.
2. No party may act abusively or disrespectfully during the process toward any party.
3. While an advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.
4. The advisor may not yell, scream, badger, or physically “lean in” to any personal space.
5. The advisor may not use profanity or make irrelevant ad hominem attacks upon any party. Questions are meant to be interrogative statements used to test knowledge or understand a fact; they may not include accusations within the text of the question.
6. The advisor may not ask repetitive questions.
7. Parties and advisors may take no action during the process that a reasonable person in the shoes of the affected party would see as intended to intimidate that person (whether party, witness, or official) into not participating in the process or meaningfully modifying their participation in the process.

Additional Support Persons Beyond Advisors of Choice

Parties may have persons other than the advisor of the Parties’ choice present during any meeting or proceeding, but they are not allowed to speak on behalf of the parties and must follow the rules of decorum.

Access to and Review of the Investigative Report

The Title IX Coordinator and/or investigator designated by the Title IX Coordinator will provide each Party and their advisors of choice with an equal opportunity to access and review an accurate description of the Relevant evidence collected throughout the investigation that is not otherwise impermissible in the form of an investigative report.

The Title IX Coordinator and/or investigator designated by the Title IX Coordinator will provide each Party and their advisors of choice with a reasonable opportunity to respond to the investigative report. Both Parties will have the opportunity to respond to the investigative report prior to the final investigative report being provided to the decisionmaker.

Maine College of Art & Design will take reasonable steps to prevent and address the Parties' and their advisors of choice's unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure. Participating individuals who engage in the unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure may be subject to Maine College of Art & Design's Student Code of Responsibility, if applicable] and other College policies and/or procedures that may apply.

Note: Disclosures of information and evidence for purposes of administrative proceedings or litigation related to the Complaint of Sex-Based Harassment are authorized and not considered unauthorized disclosures potentially subject to other disciplinary action.

Review and Access to Relevant and Not Otherwise Impermissible Evidence

Each Party will have an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that are Relevant and not otherwise impermissible, to the Title IX Coordinator and/or an investigator designated by the Title IX Coordinator. The Title IX Coordinator and/or investigator designated by the Title IX Coordinator will review all evidence gathered through the investigation and determine what evidence is Relevant and what evidence is impermissible regardless of relevance, consistent with this Grievance Procedure.

Each Party and their advisors of choice will have an equal opportunity to review and access the evidence that is Relevant to the allegations of Sex-Based Harassment and not otherwise impermissible regardless of relevance prior to the conclusion of the investigation. The Title IX Coordinator and/or investigator designated by the Title IX Coordinator will provide each Party with a reasonable opportunity to respond to the evidence. Both Parties will have the opportunity to respond to the evidence prior to the live hearing.

Maine College of Art & Design will take reasonable steps to prevent and address the Parties' unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure. Participating individuals who engage in the unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure may be subject to Maine College of Art & Design's Student Code of Reasonability, if applicable] and other College policies and/or procedures that may apply.

Note: Disclosures of information and evidence for purposes of administrative proceedings or litigation related to the Complaint of Sex-Based Harassment are authorized and not considered unauthorized disclosures potentially subject to other disciplinary action.

Relevant Evidence

Evidence is Relevant when it is related to the allegations of Sex-Based Harassment under investigation as part of this Grievance Procedure.

Questions are Relevant when they seek evidence that may aid in showing whether the alleged Sex-Based Harassment occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether the alleged Sex-Based Harassment occurred.

Impermissible Evidence

The following types of evidence, and questions seeking that evidence, are excluded as impermissible (i.e., must not be accessed or considered, except by Maine College of Art & Design to determine whether an exception applies, must not be disclosed, and must not otherwise be used) regardless of whether they are Relevant:

- Evidence that is protected under a privileged as recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- 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 Maine College of Art & Design obtains that Party's or witness's voluntary, written Consent for use in Maine College of Art & Design's Grievance Procedure; and
- 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 than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove Consent to the alleged Sex-Based Harassment. Note: the fact of prior consensual sexual

conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's Consent to the alleged Sex-Based Harassment or preclude determination that Sex-Based Harassment occurred.

Timeframes

An investigation shall take 60 business days to complete. If there are any delays or extensions, the Title IX Coordinator must appropriately notice the Parties in writing, as detailed below.

Extensions and Delays

Maine College of Art & Design allows for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice to the Parties that includes the reason for the extension or delay.

I. SINGLE INVESTIGATOR MODEL

Maine College of Art & Design does not provide for a live hearing under this Grievance Procedure. However, Title IX requires that there be live questioning to assess a Party's or witness's credibility to the extent credibility is both in dispute and Relevant to evaluating one or more allegations of Sex-Based Harassment.

The investigator/decisionmaker will question Parties and witnesses to adequately assess a Party's or witness's credibility to the extent credibility is both in dispute and Relevant to evaluating one or more allegations of Sex-Based Harassment. This will occur during individual meetings with a Party or witness.

Each Party shall have the opportunity to propose questions that the Party wants asked of any Party or witness and have those questions asked by the investigator/decisionmaker during one or more individual meetings, including follow-up meetings, with a Party or witness, subject to the appropriate procedures outlined below regarding the decisionmaker's advance evaluation of all questions. Each Party will be provided with an audio or audiovisual recording or transcript with enough time for the Party to have a reasonable opportunity to propose follow-up questions.

J. Determination Regarding Responsibility

Standard of Proof

Maine College of Art & Design uses the preponderance of the evidence standard of proof to determine whether or not Sex-Based Harassment occurred. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Grievance Procedure occurred.

General Considerations for Evaluating Evidence and Testimony

The decisionmaker is required to evaluate Relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that Sex-Based Harassment occurred, whatever the quantity of the evidence is, the decisionmaker must not determine that Sex-Based Harassment occurred.

Determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the decisionmaker. Decisionmakers shall not draw inferences regarding a Party or witness' credibility based on the Party or witness' status as a Complainant, Respondent, or witness, nor shall it base its judgments in stereotypes about how a Party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the Party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence. However, credibility judgments should not rest on whether a Party or witness' testimony is non-linear or incomplete, or if the Party or witness is displaying stress or anxiety.

Decision makers will afford the highest weight relative to other testimony to first-hand testimony by Parties and witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

A witness' testimony regarding third-Party knowledge of the facts at issue will be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

Communication of the Determination in Writing

All determinations on whether Sex-Based Harassment occurred will be communicated to the Parties in writing, simultaneously.

The written determination will include:

- A description of the alleged Sex-Based Harassment;
- Information about the policies and procedures that Maine College of Art & Design used to evaluate the allegations;
- The decisionmaker's evaluation of the Relevant evidence and determination on whether Sex-Based Harassment occurred;
- Any Disciplinary Sanctions Maine College of Art & Design will impose on the Respondent, whether Remedies other than the imposition of Disciplinary Sanctions will be provided by Maine College of Art & Design to the Complainant, and, to the extent appropriate, other Students identified by Maine College of Art & Design to be experiencing the effects of Sex-Based Harassment, if there is a finding that Sex-Based Harassment occurred; and

- Maine College of Art & Design’s procedures for Complainant and Respondent to appeal.

Timeline of Determination Regarding Responsibility

If there are no extenuating circumstances, the determination regarding responsibility will be issued by Maine College of Art & Design within 60 business days of the completion of the final investigation report.

Finality of Determination

The determination regarding responsibility becomes final either on the date that Maine College of Art & Design provides the Parties with the written determination of the result of any appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

The decisionmaker may utilize any of the following sanctions when a student Party is found responsible.

SANCTION OPTIONS

1. **EDUCATIONAL SANCTIONS:** The decisionmaker has the right to impose additional sanctions as they see fit, including, but not limited to, work assignments, essays, service to the College, and/or other related assignments aimed at educating the student on the impact their actions had on the community.
2. **VERBAL WARNING:** A notice, verbally, and documented to the student that the student has violated community standards and/or policies.
3. **WARNING:** A notice — provided in writing — to the student that the student has violated institutional community standards and/or policies either intentionally or unintentionally.
4. **LOSS OF PRIVILEGES:** The denial of specified privileges for a designated period of time.
5. **PROBATION:** A written reprimand that designates a period of time and includes the probability of more severe disciplinary sanctions if the student is found to violate any institutional community standards and/or policies during the probationary period.
6. **RESTITUTION:** Required compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement. Any restitution amount will be communicated in writing to the Student Accounts office and the amount of restitution owed will be treated as any other outstanding balance, with the student being subject to any penalty the College would typically impose in the event of non-payment, including non-course registration.
7. **RESIDENCE HALL SUSPENSION:** The separation of the student from the residence halls for a definite period of time, after which the student is eligible to return. Conditions for re-admission will be specified.
8. **RESIDENCE HALL EXPULSION:** The permanent separation of the student from the residence halls. The timeframe for vacating the residence hall, unless otherwise indicated by the Student Code Hearing Officer, is specified in the Guide to Community Living.
9. **COLLEGE SUSPENSION:** The separation of the student from the College for a definite period of time of not less than one semester nor more than four semesters, after which the student is eligible to return. Conditions for readmission will be specified.
10. **COLLEGE EXPULSION:** The permanent separation of the student from the College.
11. **REVOCATION OF ADMISSION AND/OR DEGREE:** The permanent retraction of a student’s ability to attend MECA&D or demonstrate coursework completed at the College.

12. **WITHHOLDING DEGREE:** Delaying the awarding of a degree otherwise earned.

The decisionmaker may utilize any of the following sanctions when an employee party is found responsible.

SANCTION OPTIONS

1. **VERBAL WARNING:** A notice, verbally, and documented to the employee that the employee has violated this policy.
2. **WARNING:** A notice — provided in writing — to the employee that the employee has violated this policy.
3. **LOSS OF PRIVILEGES:** The denial of specified privileges for a designated period of time.
4. **PROBATION:** A written reprimand that designates a period of time and includes the probability of more severe disciplinary sanctions if the employee is found to violate any institutional policies during the probationary period.
5. **PROFESSIONAL DEVELOPMENT OR TRAINING:** Prescribed professional development, training, and/or counseling may be required.
6. **TERMINATION:** The College may terminate employment.

K. Appeals

Each Party may appeal a determination regarding responsibility. To appeal, a Party must submit their written appeal within ten business days of being notified of the decision, indicating the grounds for appeal.

For appeals resulting from dismissal of a Complaint, please see the section on *Dismissal of Complaints*.

Grounds for Appeal

The limited grounds for appeal available are as follows:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-Based Harassment occurred or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker 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.

Additional Procedures for Appeal Process

Maine College of Art & Design will notify the Parties of any appeal, provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome, and will notify the Parties of the result of the appeal and the rationale for the result.

The submission of an appeal stays (or pauses) any sanctions for the period during which an appeal determination is being assessed. Supportive Measures and remote learning

opportunities remain available while an appeal is being deliberated and before a final decision has been made.

Appeals may be no longer than five pages including attachments. Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, 12-point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the Party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by the Vice President of Academic Affairs and Dean of the College or designee for staff and the Executive Vice President or designee for faculty, and Dean of Student Life or designee for students who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decisionmaker in the same matter. Outcome of appeal will be provided in writing simultaneously to both Parties, and include rationale for the decision. The timeline for appeals is 30 business days.

L. INFORMAL RESOLUTION

Procedures for Entering and Exiting Informal Resolution Process

At any time prior to determining whether Sex-Based Harassment occurred under this Grievance Procedure, including prior to making a Complaint, Parties may instead seek Maine College of Art & Design's assistance to resolve allegations of Sex-Based Harassment, and may elect to enter the informal resolution process.

The Parties may voluntarily elect to enter the Maine College of Art & Design's informal resolution process at any time through an informed written Consent. This informed written Consent will include all terms of the elected informal process, including a statement that any agreement reached through the process is binding on the Parties.

No Party may be required to participate in informal resolution, and Maine College of Art & Design may never condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to informal resolution.

The Parties may elect to leave the informal resolution process at any point until the informal resolution process is concluded. If a Party elects to leave the informal resolution process, the Grievance Procedure that the Parties paused will continue. In participating in the informal resolution process, the Parties understand that the timeframes governing the Grievance Procedure will temporarily cease, and only reinstate upon reentry into the Grievance Procedure.

Supportive Measures will be available, or continue to be available if already provided, during an informal resolution process, if elected to proceed. The Title IX Coordinator will also, to the extent necessary, take other appropriate prompt and effective steps to ensure

that Sex-Based Harassment does not continue or recur within Maine College of Art & Design 's Education Program or Activity.

Notice Prior to Entry Into Informal Resolution Process

Before the initiation of an informal resolution process, the Title IX Coordinator must provide to the Parties a written notice that explains:

- The allegations;
- The requirements of the informal resolution process;
- That, prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and to initiate or resume Maine College of Art & Design's Grievance Procedure;
- That the Parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the Parties from initiating or resuming Maine College of Art & Design's Grievance Procedure arising from the same allegations;
- 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; and
- What information Maine College of Art & Design will maintain and whether and how Maine College of Art & Design could disclose such information for use in its Grievance Procedure if they are initiated or resumed. NOTE: Information disclosed in the informational resolution will not be used outside of the informal process unless there is a health, safety, or emergency situation.

Determination to Approve Entry into Informal Resolution Process

Even where the Parties agree to submit a matter to informal resolution, the Title IX Coordinator or other designated official may approve the decision to move the matter to the informal resolution process and may determine that informal resolution is not appropriate under the circumstances.

Factors that the Title IX Coordinator or other designated official may weigh in considering the appropriateness of the informal resolution process include, but are not limited to, the gravity of the allegations, whether there is an ongoing threat of harm or safety to the campus, whether the Respondent is a repeat offender, whether the alleged conduct would present a future risk of harm to others, and whether the Parties are participating in good faith. This determination is not subject to appeal.

Informal resolution may be available to address allegations of Student-on-Student and is not allowed to address allegations of employee-on-Student Sex-Based Harassment.

At any time after the commencement of the informal resolution process, the Title IX Coordinator or other designated official may determine that the informal resolution process is not an appropriate method for resolving the matter, and may require that the

matter be resolved through the Grievance Procedures. This determination is not subject to appeal.

If informal resolution is approved or denied, Maine College of Art & Design will provide the outcome in writing simultaneously to the Parties. If informal resolution is approved, the Title IX Coordinator shall also provide the information of the facilitator in writing to the Parties in a reasonable timeframe once the facilitator is assigned.

Role of the Facilitator

Informal resolution processes are managed by trained facilitators. All facilitators must not be the same person as the investigator or the/a decisionmaker(s) in Maine College of Art & Design's Grievance Procedure. Any person designated to facilitate informal resolution must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The Title IX Coordinator may serve as the facilitator, subject to these restrictions if the Title IX Coordinator is also the investigator, they shall not serve as a facilitator of informal resolution.

All facilitators must have specialized training, required by law and regulation. Such training includes:

- Maine College of Art & Design's obligation to address sex discrimination, including Sex-Based Harassment, in its Education Program or Activity;
- The scope of conduct that constitutes sex discrimination, including Sex-Based Harassment, under Title IX, including the definition of Sex-Based Harassment;
- All applicable notification and information requirements related to parental, family, or marital status, including pregnancy and related conditions, and Maine College of Art & Design's response to sex discrimination;
- The rules and practices associated with Maine College of Art & Design's informal resolution process; and
- How to serve impartially, including by avoiding conflicts of interest and bias.

Contents of Informal Resolution Agreements

Potential terms that may be included in an informal resolution agreement between the Parties include but are not limited to:

- Restrictions on contact; and
- Restrictions on the Respondent's participation in one or more of Maine College of Art & Design's education programs or activities or attendance at specific events, including restrictions Maine College of Art & Design could have imposed as Remedies or Disciplinary Sanctions had Maine College of Art & Design determined at the conclusion of the Grievance Procedure that Sex-Based Harassment occurred.

Breach of Informal Resolution Agreements

If a Party breaches the resolution or if Maine College of Art & Design has other compelling reasons, such as if it learns of any fraud by a Party in entering into the agreement, Maine

College of Art & Design may void the agreement and initiate or resume the Grievance Procedure.

Confidentiality:

In entering the informal resolution process, the Parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the informal resolution process concerning the allegations of the Complaint is confidential. No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any person, provided that any Party to the informal resolution process may generally discuss the allegations under investigation with a parent, friend, advisor, or other source of emotional support, or with an advocacy organization. As a condition of entering the informal resolution process, any evidence shared or received during the informal resolution process may not be used in any subsequent Grievance Procedure or institutional appeal.

Informal Resolution Options

Maine College of Art & Design offers the following informal resolution procedures for addressing Complaints of Sex-Based Harassment described under this Grievance Procedure:

Administrative Resolution

Should the Parties mutually determine to enter the informal resolution process, and the Respondent elects to accept responsibility for the allegations of the Complaint at any point during the informal resolution process, the institution may administratively resolve the Complaint.

Where the Respondent admits responsibility, the Parties will receive simultaneous written notification of the acceptance of responsibility, and a decision-maker(s) will convene to determine the Respondent's sanction and other Remedies, as appropriate and consistent with institutional policy. The Parties will be given an opportunity to be heard at the sanctions hearing, including without limitation, the submission of impact statements, and the Parties may be accompanied by their Advisor, but questioning of Parties or witnesses will not be permitted. The Parties will receive simultaneous written notification of the decision regarding sanctions and Remedies, which may be appealed according to the process described below.

Appeals may be no longer than five pages including attachments. Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, 12-point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the Party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by the Vice President of Academic Affairs and Dean of the College or designee for staff and the Executive Vice President or designee for faculty, and Dean of Student Life or designee for students who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decisionmaker in the same matter. Outcome of appeal will be provided in writing simultaneously to both Parties, and include rationale for the decision. The timeline for appeals is 30 business days.

Mediation

The purpose of mediation is for the Parties who are in conflict to identify the implications of a Student's actions and, with the assistance of a trained facilitator, identify points of agreement and appropriate Remedies to address them. Either Party can request mediation to seek resolution; mediation will be used only with the Consent of both Parties, who will be asked not to contact one another during the process. The Student Life Office and/or Counseling and Wellness Office will also review any request for mediation, and may decline to mediate based on the facts and circumstances of the particular case. Either Party has the right to terminate the mediation process and choose or resume another option for resolution at any time.

The mediation process will typically commence within ten days after the Student Life Office and/or Counseling and Wellness Office receives Consent to mediate from both Parties, and has made its determination to allow informal resolution to go forward. Mediation will continue until concluded or terminated by either Party, the facilitator, or the Student Life Office and/or Counseling and Wellness Office. During mediation, any potential investigation will halt, and calculations for time frames will be stayed. If the mediation results in a resolution, the disciplinary process will be concluded, and the matter will be closed. If a resolution cannot be reached, the matter will be referred to the [position, e.g. AVP for Student Conduct and Community Standards] to re-evaluate other options for resolution, including investigation or proceeding forward with the Grievance Procedure.

During mediation, a facilitator will guide a discussion between the Parties. In circumstances where the Parties do not wish to meet face to face, either Party can request "caucus" mediation, and the facilitator will conduct separate meetings. Whether or not the Parties agree to meet face to face, each Party will be permitted to bring an advisor of their choice to any meetings who may be, but is not required to be, an attorney.

At the conclusion of the mediation, the facilitator will memorialize the agreement that was reached between the Parties. The Title IX Office will monitor adherence to the proposed solution and close the matter when compliance is satisfactory.

XI. Retaliation

When Maine College of Art & Design has information about conduct that reasonably may constitute Retaliation under Title IX or its Grievance Procedure, Maine College of Art &

Design is obligated to initiate its Grievance Procedure or, as appropriate, Maine College of Art & Design's informal resolution process.

Maine College of Art & Design will keep the identity of any individual who has made a report or Complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Complaint of Sex-Based Harassment or Sex Discrimination under Maine College of Art & Design's Title IX Grievance Procedure, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under Maine College of Art & Design's Title IX Grievance Procedure.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under Maine College of Art & Design's Grievance Procedure.

- A. Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes Retaliation. This includes any charges filed against an individual for Code of Conduct violations that do not involve sex discrimination or Sex-Based Harassment, but that arise from the same facts or circumstances as a report or Complaint of Sex Discrimination or a report or Complaint of Sex-Based Harassment.
- B. The college seeks to remove any barriers to reporting. An individual who reports sexual harassment or misconduct, either as a Reporting Party or a third party, will not be subject to disciplinary action by the college for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The college may, however, initiate an educational discussion or pursue other educational or therapeutic remedies regarding alcohol or other drugs for those individuals.
- C. Retaliation is generally any action that would deter a reasonable person from opposing or reporting the practices prohibited by this Policy. Such actions would include but are not limited to threats, intimidation or coercion. Retaliation by the College, any individual or any group against any person who reports a possible violation of this Policy or who attempts to intercede to prevent any violation of this Policy or who participates in any way in the hearing process under this Policy is prohibited and will result in disciplinary action.

Complaints alleging Retaliation may be filed according to the College's Grievance Procedure for Sex Discrimination.

Maine College of Art & Design does not discriminate on the basis of race, color, age, religion, sex, physical disability, HIV status, genetic information, sexual orientation, gender identity, gender expression, pregnancy, military/veteran's status or national or ethnic origin in the administration of its educational policies, admission policies, scholarship and loan programs, other school-administered programs, and employment. We admit qualified individuals without regard to race, color, age, religion, sex, national origin, physical disability, sexual orientation, gender identity, gender expression, pregnancy, or national or ethnic origin, to all the rights, privileges, programs, and activities generally accorded or made available to students at the school. Maine College of Art & Design prohibits sex discrimination in any Education Program or Activity that it operates, as required by Title IX and including in admission and employment.