



## **Resolution Process for Alleged Violations of the Policy on Equal Opportunity, Harassment, and Non-Discrimination for Non-Title IX (Process A)**

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## **I. Overview**

Monmouth College will act on any allegation or notice of violation of the policy on Equal Opportunity, Harassment and Nondiscrimination that is received by the Title IX/VI Coordinator<sup>1</sup> or a member of the administration, faculty, or other employee with the exception of confidential resources, as articulated in the Policy above. Monmouth College will provide a prompt and equitable resolution of complaints filed under this Policy.

The procedures described below apply to all allegations of harassment or discrimination on the basis of protected class status involving students, staff, faculty members, or third parties when the Title IX/VI Coordinator determines that Process A is inapplicable, or offenses subject to Process A have been dismissed

Note: with the exception of at-will employees. Unionized/other categorized employees are subject to the terms of their agreements/employees' rights to the extent those agreements do not conflict with federal or state compliance obligations. Employees are encouraged to consult any applicable collective bargaining agreement for additional procedures that may apply.

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

## **II. Initial Assessment**

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

- The Title IX/VI Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX/VI Coordinator works with the Complainant to ensure they have an Advisor.
- The Title IX/VI Coordinator works with the Complainant to determine whether the Complainant prefers a supportive response or an Administrative Resolution.
  - If a supportive and remedial response is preferred, the Title IX/VI Coordinator works with the Complainant to identify their wishes and then seeks to facilitate implementation. The Administrative Resolution process is not initiated, though the Complainant can elect to initiate it later, if desired.
  - If an Informal Resolution option is preferred, the Title IX/VI Coordinator assesses whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
  - If Administrative Resolution is preferred, the Title IX/VI Coordinator initiates the investigation process and determines whether the scope of the investigation will address:
    - Incident, and/or
    - A potential pattern of misconduct, and/or
    - A culture/climate issue.

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<sup>1</sup> All references herein to a Title IX/VI Coordinator also include a designee of the Title IX/VI Coordinator.

- In many cases, the Title IX/VI Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the Campus Assessment, Response and Evaluation (CARE) Team as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:
  - Interim suspension of a Respondent who is a threat to health/safety;
  - Whether the Title IX/VI Coordinator should pursue Administrative Resolution absent a willing/able Complainant;
  - Whether to put the investigation on the footing of incident and/or pattern and/or climate;
  - To help identify potentially predatory conduct;
  - To help assess/identify grooming behaviors;
  - Whether a Complaint is amenable to Informal Resolution, and what modality may be most successful;
  - Whether to permit a voluntary withdrawal by the Respondent;
  - Whether to impose transcript notation or communicate with a transfer Recipient about a Respondent;
  - Assessment of appropriate sanctions/remedies;
  - Whether a [Clery Act](#) Timely Warning/Trespass order/Persona-non-grata is needed.

Based on the initial assessment, Monmouth College will initiate one of two responses:

- Informal Resolution – typically used for less serious offenses and only when all parties agree to Alternate Resolution, or when the Respondent is willing to accept responsibility for violating policy. This can also include a remedies-only response.
- Formal Resolution – investigation of policy violation(s) and recommended finding, subject to a determination by the Title IX/VI Coordinator or Decision-makers from the “Pool” of trained faculty and staff and the opportunity to appeal.

The investigation and the subsequent Formal Resolution determine whether the nondiscrimination policy has been violated. If so, Monmouth College will promptly implement effective remedies designed to end the discrimination, prevent recurrence, and address the effects.

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

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

### **III. Resolution Process Pool**

The resolution processes rely on a pool of officials (“Pool”) to carry out the process. Members of the Pool are announced in an annual distribution of this Policy to all students and employees.

The list of members and a description of the Pool can be found under the Administrative Contact section of this Policy. Members of the Pool are trained annually in all aspects of the resolution process and can serve in any of the following roles, at the direction of the Title IX/VI Coordinator:

- To provide appropriate intake of and initial advice pertaining to allegations

- To act as optional process Advisors to the parties
- To facilitate Informal Resolution
- To investigate allegations
- To serve as a Decision-maker
- To serve as an Appeal Decision-maker

The Title IX/VI Coordinator appoints the Pool, in consultation with other administrators (e.g., the Dean of the Faculty will consult with Faculty Senate for recommendations of faculty members to become part of the Pool), which acts with independence and impartiality.

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

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

- The scope of Monmouth College's Discrimination and Harassment Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents and promote accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- Types of evidence
- Deliberation
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by Monmouth College with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes
- How to serve impartially, by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Any technology to be use
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- ow to determine appropriate sanctions in reference to all forms of harassment and discrimination allegations

Specific training is also provided for Appeal Decision-makers, intake personnel, and Advisors.

The Resolution Process Pool includes:

- At least 5 members of the faculty
- At least 5 members of the staff

Pool members are usually appointed to three-year terms, with the opportunity to serve consecutive terms of mutually agreed upon. Appointments to the pool should be made with attention to a broad representation of the campus community. Individuals who are interested in serving in the Pool are encouraged to contact the Title IX/VI Coordinator.

#### **IV. Counterclaims**

Counterclaims by the Respondent may be made in good faith but are also sometimes made for purposes of retaliation. Monmouth College is obligated to ensure that any process is not abused for retaliatory purposes.

Monmouth College permits the filing of counterclaims, but uses the initial assessment, described above in the Policy section, to assess whether the allegations are made in good faith. If they are, the allegations will be processed using the resolution procedures below, typically after resolution of the underlying allegation.

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

#### **V. Advisors**

##### **A. Expectations of an Advisor**

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

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

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

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

##### **B. Expectations of the Parties with Respect to Advisors**

Each party may choose an Advisor<sup>2</sup> who is eligible and available to accompany them throughout the process. The Advisor can be anyone, including an attorney, but should not be someone who is also a

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<sup>2</sup> This could include an attorney, advocate, or support person. Witnesses are not entitled to Advisors within the process, though they can be advised externally.

witness in the process. A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout.

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

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

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

For parties who are entitled to union representation, Monmouth College will allow the unionized employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are/are not permitted to have union representation or Advisors in grievance process interviews or meetings.

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

### **C. Assistance in Securing an Advisor**

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

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

Complainants may wish to contact organizations such as:

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

## **VI. Resolution Options**

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with Monmouth College policy. While there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose. Monmouth College encourages parties to discuss this with their Advisors before doing so.

### **A. Informal Resolution**

Informal Resolution can include three different approaches:

- When the parties agree to resolve the matter through an alternate resolution mechanism including mediation, restorative practices, etc.;

- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process; or
- When the Title IX/VI Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. If a Respondent wishes to initiate Informal Resolution, they should contact the Title IX/VI Coordinator to so indicate.

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

### **i. Alternate Resolution**

Alternate Resolution is an informal process including mediation or restorative practices, etc. by which a mutually agreed upon resolution of an allegation is reached. It may be used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the Formal Resolution process (described below) to resolve conflicts. The parties must consent to the use of Alternate Resolution.

In an Alternate Resolution meeting, a trained administrator facilitates a dialogue with the parties to an effective resolution, if possible. Institutionally-imposed sanctions are not possible as the result of an Alternate Resolution process, though the parties may agree to accepted sanctions and/or appropriate remedies.

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

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

### **ii. Respondent Accepts Responsibility for Alleged Violations**

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent accepts responsibility, the Title IX/VI Coordinator makes a determination that the individual is in violation of Monmouth College Policy.

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

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

If the Respondent accepts responsibility for some of the alleged policy violations and the Title IX/VI Coordinator has determined appropriate sanction(s) or responsive actions, which are promptly implemented, for those violations, then the remaining allegations will continue to be investigated

and resolved. The Complainant will be informed of this outcome. The parties are still able to seek Alternate Resolution on the remaining allegations, subject to the stipulations above.

### **iii. Negotiated Resolution**

The Title IX/VI Coordinator or designee, (i.e. Dean of the Faculty or the Director of Personnel) with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and Monmouth College. Negotiated Resolutions are not appealable.

## **B. Formal Resolution**

Formal Resolution can be pursued for any behavior for which the Respondent has not accepted responsibility that constitutes conduct covered by the Equal Opportunity, Harassment, and Nondiscrimination Policy at any time during the process. Formal Resolution will be provided in a prompt and equitable manner. Formal Resolution includes a thorough, reliable, and impartial investigation.

If Formal Resolution is initiated, the Title IX/VI Coordinator will provide written notification of the investigation to the parties at an appropriate time during the investigation. Typically, notice is given at least 24 hours in advance of an interview. Advanced notice facilitates the parties' ability to identify and choose an Advisor, if any, to accompany them to the interview.

Notification will include a meaningful summary of the allegations, will be made in writing, and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official Monmouth College records, or emailed to the parties' Monmouth College-issued or designated email account.

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

Monmouth College aims to complete all investigations within a sixty (60) to one-hundred-twenty (120) business day time period, which can be extended as necessary for appropriate cause by the Title IX/VI Coordinator, with notice to the parties as appropriate.

Once the decision is made to commence an investigation, the Title IX/VI Coordinator appoints Pool members to conduct the investigation usually within two (2) days of determining that an investigation should proceed.

Monmouth College strives to complete investigations expeditiously, normally within 10-20 business days, though some investigations take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

Monmouth College will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

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



the initial evidence collection process is complete.

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

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

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

## **VII. Investigation**

**Students:** Once the decision to commence a formal investigation is made, the Title IX/VI Coordinator appoints Pool members to conduct the investigation typically using a team of two Investigators, usually within two (2) business days of determining that an investigation should proceed. However, if deemed necessary the Title IX/VI Coordinator could assign an outside contractor or an attorney to investigate.

**Faculty:** With respect to any alleged or suspected violations of this policy by a faculty member, an investigation shall be undertaken using the following procedure. The complaint shall be investigated by a "Faculty Investigative Team" composed two (2) faculty chosen from the Pool members of three to five trained faculty investigators by the Dean of the Faculty in consultation with the Faculty Senate Chair. After consultation with the Faculty Senate Chair, a third investigator from the faculty or administration may be appointed.

Any member of the Faculty Investigative Team, after consultation with the Dean of the Faculty, or the Dean of the Faculty, after consultation with the President, may delegate his or her responsibilities to another administrator or faculty member, where the circumstances of a particular complaint make it inappropriate for the original member of the team or the Dean to participate or where delegation seems necessary to achieve a full and fair investigation of a particular complaint.

Monmouth College is committed to the principles of free inquiry and free expression. This policy is not intended to stifle this freedom, nor will it be permitted to do so. Prohibited discrimination and harassment, however, are neither legally protected expression nor the proper exercise of academic freedom, and such conduct is incompatible with the values of this College. To ensure that academic freedom considerations are properly considered in any investigation and resolution of a complaint, the faculty Senate Chair and a faculty member will be added to the investigative team for any complaint that appears to raise questions about academic freedom or appropriate pedagogy.

The Dean of the Faculty may, after consultation with the Faculty Senate Chair and President, instead employ a qualified outside contractor or attorney to investigate.

**Staff:** Once the decision to commence a formal investigation is made, the Title IX/VI Coordinator appoints Pool members to conduct the investigation typically using a team of two Investigators, usually within two (2) business days of determining that an investigation should proceed. However, if deemed necessary the Title IX/VI Coordinator could assign an outside contractor or an attorney to investigate.

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

- Determine the identity and contact information of the Complainant
- In coordination with campus partners (e.g., the Title IX/VI Coordinator), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct
- Assist the Title IX/VI Coordinator with conducting an initial assessment to determine if there is reasonable cause to believe the Respondent has violated policy
- If there is insufficient evidence to support reasonable cause, the process is closed with no further action
- Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all parties and witnesses
- Meet with the Complainant to finalize their statement, if necessary
- Prepare the initial Notice of Investigation and Allegation (NOIA) on the basis of the initial assessment. Notice may be one step or multiple steps, depending on how the investigation unfolds, and potential policy violations may be added or dropped as more is learned. Investigators will update the NOIA accordingly and provide it to the parties.
- Notice should inform the parties of their right to have the assistance of an Advisor of their choosing present for all meetings attended by the advisee
- When formal notice is being given, it should provide the parties with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result
- Give an instruction to the parties to preserve any evidence that is directly related to the allegations
- Provide the parties and witnesses with an opportunity to review and verify the Investigator's summary notes from interviews and meetings with that specific party or witness
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- Interview all relevant individuals and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest questions they wish the Investigator(s) to ask of the other party and witnesses
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, summarize for the parties the list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation and all evidence
- Provide parties with a copy of the draft investigation report when it is completed, including all relevant evidence, analysis, credibility assessments, and recommended finding(s)
- Provide each party with a full and fair opportunity to respond to the report in writing within five (5) days and incorporate that response into the report
- Investigators may choose to respond in writing in the report to the responses of the parties, and/or to share the responses between the parties for their responses, while also ensuring that they do not create a never-ending feedback loop

- Share the report with the Title IX/VI Coordinator or legal counsel for review and feedback
- Provide the final report to the Title IX/VI Coordinator with a recommendation to the Decision-maker on a determination, based on a preponderance of the evidence whether a policy violation is more likely than not to have occurred

### **VIII. Determination**

Within two (2) to three (3) days of receiving the Investigator's recommendation, the Title IX/VI Coordinator or a trained, designated Decision-maker from the Pool reviews the report and all responses, and then makes the final determination on the basis of the preponderance of the evidence.

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

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

The Title IX/VI Coordinator then timely provides the parties with a written Notice of Outcome to include findings, any sanction(s), and a detailed rationale, delivered simultaneously (without undue delay) to the parties.

### **IX. Additional Details of the Investigation Process**

#### **A. Witness responsibilities**

Witnesses (as distinguished from the parties) who are faculty or staff of Monmouth College are expected to cooperate with and participate in Monmouth College's investigation and resolution process.

#### **B. Remote processes**

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

#### **C. Recording**

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

#### **D. Evidence**

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

#### **E. Sexual history/patterns**

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

#### **F. Previous allegations/violations**

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

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

#### **G. Notification of outcome**

If the Respondent admits to the violation(s), or is found in violation, the Decision-maker, in consultation with other administrators as appropriate, determines sanction(s) and/or responsive actions, which are promptly implemented in order to effectively to stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

The Title IX/VI Coordinator informs the parties of the determination within two (2) to three (3) business days of the resolution, ideally simultaneously, but without significant time delay between notifications. Notifications are made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official Monmouth College records; or emailed to the parties' Monmouth College-issued or designated email account. Once mailed, emailed, and/or received in-person, notice is presumptively delivered.

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

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

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

## **X. Sanctions**

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

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

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

### **A. Student Sanctions**

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

Primary sanctions include:

- Advisory letter
- Ban from college property or events
- Campus access restrictions
- College event restrictions
- Degree revocation
- Disciplinary dismissal (suspension or expulsion)
- Disciplinary hold on academic and or financial records
- Exclusion
- Loss of oversight, supervisory responsibility
- Loss of privileges
- Monitoring
- No contact directive
- Performance improvement/management process
- Probation
- Required counseling or therapy
- Required training or education
- Removal from leadership position
- Revocation of offer (admission or employment)
- Social probation
- Suspension with pay
- Suspension without pay
- Termination of employment

- Transfer employment
- Verbal warning
- Written warning
- Organizational Sanctions: Deactivation, loss of recognition, loss of some or all privileges (including student organization registration) for a specified period of time.
- Other Actions: In addition to or in place of the above sanctions, Monmouth College may assign any other sanctions as deemed appropriate.

## **B. Employee Sanctions**

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

- Advisory letter
- Ban from college property or events
- Campus Warning – verbal or written
- College event restrictions
- Demotion
- Disciplinary dismissal
- Exclusion
- Performance improvement/management process
- Probation
- Loss of annual pay increase
- Loss of oversight, teaching or supervisory responsibility
- Required counseling
- Required training or education
- Removal from leadership position
- Revocation of offer
- Revocation of tenure
- Suspension with pay
- Suspension without pay
- Termination of employment
- Transfer employment
- Verbal warning
- Written warning
- Other Actions: In addition to or in place of the above sanctions, may assign any other sanctions as deemed appropriate.

## **XI. Withdrawal or Resignation While Charges are Pending**

Students: Monmouth College does not permit a student to withdraw if that student has an allegation pending for violation of the policy on Equal Opportunity, Harassment, and Nondiscrimination. Monmouth College may place a hold, bar access to an official transcript, and/or prohibit graduation as necessary to permit the resolution process to be completed.

Employees: Should an employee resign with unresolved allegations pending, the records of the Title IX/VI Coordinator will reflect that status, and any Monmouth College responses to future inquiries regarding employment references for that individual will include the former employee's unresolved status.

## **XII. Appeals**

All requests for appeal consideration must be submitted in writing to the Title IX/VI Coordinator within five (5) business days of the delivery of the written finding of the Title IX/VI Coordinator or Decision-maker. Any party may appeal the findings only under the grounds described below.

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

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g., substantiated bias, material deviation from established procedures).
- To consider new evidence, unknown or unavailable during the investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.

**Faculty:** If either the Complainant or the Respondent is dissatisfied with the outcome of the investigation or the recommended disciplinary action, if any, he or she will be entitled to challenge that decision using the Grievance Procedures set forth at Section 1.8.8 of the Faculty Manual.

**Staff:** If either the Complainant or the Respondent is dissatisfied with the outcome of the investigation or the recommended disciplinary action, if any, he or she will be entitled to challenge that decision using the Grievance Procedures set forth in the applicable employee manual (Administrative Staff Handbook at Section III.G; Support Staff Manual at Section III.K; UFCW Local 1546 Labor Agreement at Article 18).

When any party requests an appeal, the Title IX/VI Coordinator will share the appeal request with the other party(ies) or other appropriate persons such as the Investigator(s), who may file a response within three (3) business days. The other party may also bring their own appeal on separate grounds.

If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within three (3) business days. These responses or appeal requests will be shared with each party. The Appeal Chair will review the appeal request(s) within seven (7) business days of completing the pre-appeal exchange of materials. If grounds are not sufficient for an appeal, or the appeal is not timely, the Appeal Chair dismisses the appeal.

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

- Decisions by the Appeal Chair are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is compelling justification to do so.
- Appeals are not intended to be full re-hearings (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the investigation and pertinent documentation regarding the grounds for appeal.
- An appeal is not an opportunity for the Appeal Chair to substitute their judgment for that of the original Investigator(s) or Title IX/VI Coordinator/Decision-maker merely because they disagree with the finding and/or sanction(s).
- Appeals granted based on new evidence should normally be remanded to the

Investigator(s) for reconsideration. Other appeals should be remanded at the discretion of the Appeal Chair.

- Sanctions imposed as the result of the Formal Resolution are implemented immediately unless the Title IX/VI Coordinator stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
  - For students: Graduation, study abroad, internships/ externships, etc., do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- All parties will be informed in writing within seven (7) business days of the outcome of the appeal without significant time delay between notifications, and in accordance with the standards for Notice of Outcome as defined above.
- Once an appeal is decided, the outcome is final; further appeals are not permitted, even if a decision or sanction is changed on remand.
- In rare cases when a procedural error cannot be cured by the original Investigator(s) and/or Title IX/VI Coordinator/Decision-maker (as in cases of bias), the Appeal Chair may recommend a new investigation and/or Administrative Resolution process, including a new resolution administrator.
- The results of a new Formal Resolution process can be appealed once, on any of the three applicable grounds for appeals.
- In cases in which the appeal results in Respondent's reinstatement to Monmouth College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

### **XIII. Long-Term Remedies/Actions**

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

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

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

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

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

### **XIV. Failure to Complete Sanctions/Comply with Interim and Long-term**



## **Remedies/Responsive Actions**

All Respondents are expected to comply with conduct sanctions, responsive actions, and corrective actions within the timeframe specified by the Title IX/VI Coordinator.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/responsive/corrective action(s), including suspension, expulsion, and/or termination from Monmouth College.

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

### **XV. Recordkeeping**

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept for (7) seven years, or as required by state or federal law or college policy, by the Title IX/VI Coordinator in the Title IX case database. During an investigation of a complaint, and upon the completion of an investigation, the custodian of the files shall be the Office of Equal Opportunity and Access/Title IX. Future access to any file shall be provided in keeping with the Illinois Open Records Act and the Family Educational Rights and Privacy Act.

### **XVI. Statement of the Rights of the Parties**

#### **XVII. Disabilities Accommodation in the Resolution Process**

Monmouth College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to Monmouth College's resolution process.

Anyone needing such accommodations or support should contact the following individuals:

**Students:** Jenny Sandberg, Director, Student Success and Accessibility Services, Hewes Library, Room 129, 309-457-2257, [ssas@monmouthcollege.edu](mailto:ssas@monmouthcollege.edu)

**Employees:** Mike McNall, Director of Personnel, Room 112, Poling Hall, 309-457-2122, [mike@monmouthcollege.edu](mailto:mike@monmouthcollege.edu)

The individuals listed above will review the request and, in consultation with the person requesting the accommodation and the Title IX/VI Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

#### **XVIII. Title IX/VI Coordinator**

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this Policy and procedures, may be made internally to:

#### **Michelle Merritt**

Title IX/VI Coordinator

Associate Vice President of Student Life and Co-Dean of Students

Office of Student Affairs, Poling Hall Room 126, Suite 123

700 East Broadway

Monmouth, IL 61462

309-457-2114

[titleix@monmouthcollege.edu](mailto:titleix@monmouthcollege.edu)

[titlevi@monmouthcollege.edu](mailto:titlevi@monmouthcollege.edu)