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**Student and Employee Grievances Based on Discrimination,  
Harassment, Sexual Misconduct or Retaliation**

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**POLICY STATEMENT**

Yavapai College is committed to maintaining a college environment which is free from discrimination or harassment in violation of the law or College Policy. The College Anti-Discrimination Policy prohibits discrimination on the basis of sex, race, color, age, national origin, religion, sexual orientation, disability, veteran status or gender identity. See Policy 10.02 Anti-Discrimination.

Any individual in the College community, including applicants, employees, students, and guests, may file a grievance alleging discrimination, harassment, or retaliation for reporting discrimination or harassment as described below. Grievances concerning allegations of this behavior will follow the grievance resolution process. This process may also be used to address incidents of sexual misconduct as defined in Policy 10.03 Sexual Misconduct (Violence Against Women Act) Individuals reporting sexual misconduct may also contact police or if it is an emergency, dial 911.

The College encourages students and employees to report incidents of discrimination, harassment, or retaliation as soon as possible, by contacting the individual below.

**MAKE REPORTS TO:**

Title IX Coordinator / Human Resources Director  
Monica Belknap, J.D. (or successor)  
Yavapai College  
1100 E. Sheldon Street, Prescott, AZ 86301  
(928) 776-2211  
Monica.belknap@yc.edu

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## PROCEDURE

### GRIEVANCE PROCESS

#### Rules Applicable to the Grievance and Review Process

- No person shall participate in deciding or investigating the complaint who has a bias or conflict of interest. Individuals who believe they have a conflict of interest should recuse themselves voluntarily. Any individual who believes that a conflict of interest precludes an individual's participation in the grievance process should report the alleged conflict to the Title IX Coordinator, or if the conflict involves the Title IX Coordinator, to the Vice President of Instruction and Student Development.
- The Resolution Panel decision should be completed within sixty (60) days or less of when the complaint is filed, unless extraordinary circumstances.
- When evaluating the evidence, the decision maker should determine whether it is more likely than not that the respondent committed the alleged behavior. This is a "preponderance of the evidence" standard. The decision maker also decides whether the alleged behavior is in fact a violation of policy.
- Both the reporting party and the respondent shall have equal opportunity to have an advisor present in any meetings or proceedings related to this process. Advisors may participate in the process by giving support and/or advice, but cannot speak on behalf of any party.
- The time limits specified are intended to provide timely and prompt resolution of all complaints. If either party fails to follow the required timelines for the next steps in the process, this may result in moving to the next step without that party's input at that level.
- The decision maker at any level may consult with a legal advisor.
- Written complaints as discussed in Level Two below should be filed within forty-five (45) calendar days of the alleged incident. If the alleged discrimination, harassment, misconduct or retaliation is of a continuing nature, the complaint should be filed within forty-five (45) calendar days of the most recent incident. Complaints received by the College outside of this forty-five (45) day timeline may, at the discretion of the Title IX Coordinator, be investigated in the same manner as if a timely report had been made. Action taken as a result of a late complaint may differ based upon whether a report was timely.
- At each level, any determination made shall be issued to both parties simultaneously, in writing.

**Level One: Informal Procedures for Resolution** (Optional.) Any person who believes that inappropriate behavior in the form of discrimination, harassment or retaliation has occurred is encouraged to attempt to resolve grievances at the lowest possible level through proceeding informally. These informal procedures may involve individual and/or community solutions that are designed to address a report of inappropriate conduct. Examples of informal procedures include:

- **One-on-One Communication:** If an individual with a grievance wishes to address a situation without the direct involvement of a third party, that individual may communicate directly with the responding party ("respondent"). This action is only appropriate if the individual with the grievance does not feel threatened, there is no risk of physical harm, and the individual with the grievance reasonably believes that the respondent will be receptive to the communication.

- **Informal Procedures for Resolution with the Assistance of a Third Party:** An individual with a grievance may seek assistance to informally resolving an issue of alleged discriminatory or retaliatory conduct. The assistance might be provided by a supervisor, by the Office of Human Resources, or by a trained mediator. Any individual attempting to assist as a third party should first consult with the Title IX Coordinator/Human Resources Director before attempting to reach an informal resolution.
- **Negotiated Resolution:** Negotiated resolution is a process which attempts to resolve complaints quickly and to the satisfaction of all parties without reaching formal findings. In contrast to mediation or other informal resolution such as one-on-one communication or discussion with a third party, a negotiated resolution generally does not involve meetings between the reporting party and the respondent unless the meeting is expressly agreed upon. If the Title IX Coordinator determines that a complaint or grievance is suitable for negotiated resolution, this option will be discussed and offered to the reporting party who will be given five (5) calendar days to decide whether to pursue this option. If the reporting party agrees, the Title IX Coordinator will notify the responding party that they have been reported for discriminatory or harassing behavior or retaliation, and advise of the nature of the allegations. The negotiated resolution option will be offered to the Respondent, who has five (5) calendar days to decide whether to exercise this option. Negotiation resolution should be completed no later than thirty (30) calendar days from the date that the Respondent agrees to participate in the process. At any time during the negotiated resolution process, either party may elect to terminate the process. Upon termination of the process, the Title IX Coordinator or designee will proceed with review of a formal complaint and investigation as described in Level Two.

If any complaint or grievance is successfully resolved through informal procedures, the parties will sign a resolution form setting forth the agreed upon terms or understanding. Upon signature of the form by both parties, other records except for any original complaint form will be destroyed. The matter will be considered closed.

Resolutions under the informal procedures may include any interventions or solutions, such as training for individuals or groups, agreed upon future conduct or interaction, agreed upon sanctions, and/or other protective measures.

If a resolution is not reached, or if the Respondent fails to comply with the terms of any agreed resolution, the matter will proceed to the next level, including a formal complaint and investigation of the allegations made, under Level Two.

**Administrative Discretion:** Yavapai College retains discretion to conduct an administrative review into any allegation of prohibited discriminatory or retaliatory conduct, even if a formal complaint is not filed. Confidentiality will be maintained to the extent reasonably possible.

**Level Two: Formal Written Complaint/Grievance, and Investigation** In step two, an individual with the complaint files a written description of the incident or behavior which forms the basis of the complaint on the form entitled, “Statement of Grievance Based Upon Discrimination, Harassment, and/or Sexual Misconduct” which is included with this Policy. This form will be completed and

submitted to the Title IX Coordinator. Individuals who would like assistance with completion of this Form or who are undecided about next steps may call, visit, or email with Title IX Coordinator/designee, Human Resources Director/designee, student development staff, or the Dean of Student Development for assistance.

Upon receipt of a report alleging discrimination, harassment or retaliation, the Title IX Coordinator or his/her designee will review the allegations, and determine whether, if true, the allegations would state a violation of College policy. If not, written notice of this decision shall be given to the reporting party, together with information of other options for addressing the reporting party's concerns. If the allegations do describe behavior which, if true, would be a policy violation, the Title IX Coordinator may discuss or recommend a negotiated resolution process as an option to the reporting party if it has not already been attempted.

If negotiated resolution is not recommended or is not agreed to by both parties, or if negotiated resolution is attempted but is unsuccessful, the grievance shall be investigated. The Title IX Coordinator or his/her designee will investigate or appoint one or more trained investigators to review the matter in a prompt and efficient manner which is respectful to the rights of all involved. The respondent will receive notice of the allegations made about him or her. All parties will be given equal opportunity to meet with the investigator, to provide a written statement, and to list witnesses or other evidence. The investigation should be completed as promptly as reasonably possible, generally within two (2) weeks.

A report of the investigation will be presented by the investigator(s) to a Resolution Panel of three (3) members appointed by the Title IX Coordinator or designee. The report shall include the investigator's summary determination of whether there is cause to believe that policy has been violated. The Title IX Coordinator may advise the investigator(s) concerning method of the presentation to the Panel. The Panel shall include at least one (1) administrator and one (1) employee. The parties shall simultaneously be provided a copy of the investigation report at least twenty-four (24) hours in advance of its presentation to the Resolution Panel. The parties may listen to the presentation and will be given opportunity to appear and to present oral or written statements or other evidence to the Panel. Upon request, either or both parties may attend the presentation through video conferencing. Formal rules of evidence or court procedures do not apply. Recordings shall be made of the proceedings.

The Panel may then meet privately to review the evidence, review the complaint and any response, and shall make a determination as to whether there has been a violation of policy. The determination shall be made using a preponderance of the evidence standard. If the answer is yes, the Panel shall recommend sanctions, training, and/or other action in writing. The conclusions and recommendation of the Panel shall be provided to the complainant and the respondent simultaneously. As a general rule, absent extraordinary circumstances, a decision, reached by majority vote, should be issued within sixty (60) days of the time the complaint is filed.

The recommended sanctions or other action in resolution of the complaint will become final unless either the complainant or respondent files an appeal with the Vice President of Instruction and Student Development within seven (7) calendar days, (one week) of receipt of the decision. Any appeal must state the specific grounds for the appeal, which must be one or more of the following: 1) a failure to follow proper procedures, 2) the recommended sanctions or other action recommended is disproportionate to the seriousness of the behavior, or 3) new, significant evidence not available previously.

### **Level Three: Review on Appeal**

If the Level Two decision of the Panel is appealed within seven (7) days, the matter shall be reviewed by the Vice President of Instruction and Student Development, or if there is a potential conflict of interest, then by the Vice President of Finance and Administration. The Vice President shall review the record which may include, but not be limited to, the complaint, any response, and the conclusions and recommendations of the Panel. The Vice President may also meet with the Title IX Coordinator. The Title IX Coordinator may review the Panel's recommendation and submit his/her recommendation to the Vice President. At the discretion of the Vice President, he or she may meet with the complainant and the respondent, separately, to hear statements on the appeal. A decision shall be issued within twenty-one (21) days of the appeal being filed. A decision shall be issued in writing and delivered to both parties simultaneously.

The Level Three decision shall be final, unless the recommended discipline (or action requested by the complaining party) is withholding or revocation of degree or certificate or expulsion (for students) or suspension without pay for more than ten (10) days or termination (for employees). In this case, a written Request for Review by the President may be submitted by either party within seven (7) days of receipt of the decision from Level Three. The grounds for Request for Review of the Level Three decision are the same as the grounds for appeal from Level Two.

### **Level Four: Request for Review by the President**

If the Request for Review is filed under circumstances sufficient for appeal from Level Three, the President or designee shall review the request, the record, and conclusions reached. The President or designee may uphold the decisions from the level below, modify the decision, or remand for further steps as deemed appropriate. A final decision shall be issued within twenty-one (21) days from receipt of the written Request for Review by the President. A decision shall be issued in writing and delivered to both parties simultaneously.

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## **POLICY HISTORY**

Adopted 02/28/2017