

<b>Administrative Policy:</b>		Responding to Harassment Based on Sex under Title IX	<b>Policy Number:</b>	AP 3434
<b>Applicable regulations - Federal/State/Board/College</b>		20 U.S. Code Sections 1681 et seq.; 34 Code of Federal Regulations Parts 106.1 et seq. Returned to pre-2024 Title IX Rule 2/25		
<b>Accountable Administrator:</b>		Vice President of Student Affairs	<b>Position responsible for updates:</b>	Vice President of Student Affairs
<b>Original Date:</b>	3.25.2021	<b>Revised and adopted:</b>	3.12.2025	<b>Reviewed and adopted:</b> 2.11.2025

## Purpose

Oregon Coast Community College encourages members of the Oregon Coast Community College community to report sexual harassment. This procedure only applies to conduct defined as sexual harassment under Title IX and applicable federal regulations and that meets Title IX jurisdictional requirements. Oregon Coast Community College will respond to sexual harassment and sexual misconduct that falls outside that definition and outside the jurisdiction of the Title IX federal regulations using State law and applicable Oregon Coast Community College policies and procedures. In implementing these procedures discussed below, Oregon Coast Community College will also provide supportive measures, training, and resources in compliance with State law, unless they are preempted by the Title IX regulations.

## Principle

### **Title IX Coordinator & Title IX Deputy Coordinators**

Questions concerning Title IX may be referred to the OCCC Title IX Coordinator or Deputy Coordinators whose contact information is below:

Bruce Clemetsen	Robin Gintner	Joy Gutknecht
Title IX Coordinator	Deputy IX Coordinator	Deputy IX Coordinator
Interim Vice President of Academic and Student Affairs	Vice President of Administrative Services	Director of Human Resources
Oregon Coast Community College	Oregon Coast Community College	Oregon Coast Community College
400 SE College Way	400 SE College Way	400 SE College Way
Newport, OR 97366	Newport, OR 97366	Newport, OR 97366
<a href="mailto:bruce.clemetsen@oregoncoast.edu">bruce.clemetsen@oregoncoast.edu</a>	<a href="mailto:robin.gintner@oregoncoast.edu">robin.gintner@oregoncoast.edu</a>	<a href="mailto:joy.gutknecht@oregoncoast.edu">joy.gutknecht@oregoncoast.edu</a>
(541) 867-8511	541-867-8516	541-867-8515

The Title IX Coordinator is required to respond to reports of sexual harassment or misconduct. The Title IX

Coordinator will handle information received with the utmost discretion and will share information with others on a need-to-know basis. For example, the Title IX Coordinator may need to address public safety concerns on campus, comply with State and federal legal requirements, or share information to implement supportive measures.

A report of sexual harassment to the Title IX Coordinator does not necessarily lead to a full investigation, as discussed more fully below. However, the Title IX Coordinator will make an assessment to determine if there is a safety risk to the campus. If the Title IX Coordinator finds there is a continued risk, the Title IX Coordinator will file the formal complaint without the Complainant's consent or cooperation.

### **Title IX Harassment Complaints, Investigations, and Hearings**

These Title IX sexual harassment procedures and the related policy protects students, employees, applicants for employment, and applicants for admission.

The investigation and adjudication of alleged sexual harassment under this procedure is not an adversarial process between the Complainant, the Respondent, and the witnesses, but rather a process for Oregon Coast Community College to comply with its obligations under existing law. The Complainant does not have the burden to prove, nor does the Respondent have the burden to disprove the underlying allegation or allegations of misconduct.

### **Jurisdictional Requirements – Application of Procedures**

These procedures apply if the conduct meets the following three jurisdictional requirements:

- The conduct took place in the United States;
- The conduct took place in an Oregon Coast Community College “education program or activity.” This includes locations, events, or circumstances over which Oregon Coast Community College exercised substantial control over both the Respondent and the context in which the harassment occurred, including on-campus and off-campus property and buildings Oregon Coast Community College owns or controls or student organizations officially recognized by Oregon Coast Community College own or control.
- The conduct meets the definition of Title IX “sexual harassment.”

### **Definitions**

**Advisor:** Throughout the grievance process, both the Complainant and Respondent have a right to an Advisor of their choice. If a Party does not have an Advisor at the time of the hearing, Oregon Coast Community College must provide the Party an Advisor of Oregon Coast Community College's choice, free of charge. Oregon Coast Community College] may establish restrictions regarding the extent to which the Advisor may participate in the proceedings as long as the restrictions apply equally to both Parties.

Parties have the right to consult with an attorney, at his/her/their own expense, at any stage of the Complaint process if he/she/they wishes to do so. An attorney may serve as an advisor.

**NOTE:** The regulations only require Oregon Coast Community College to provide an Advisor to conduct cross-examination. **Oregon Coast Community College** provide an Advisor be provided for the entire hearing, if the Party does not identify their own private Advisor; so, the Advisor is able to observe the direct examination of all witnesses and thus better able to conduct cross-examination.

**Complainant:** A Complainant is an individual who alleges he/she/they is the victim of conduct that could constitute sexual harassment.

**Consent:** Consent means an affirmative, conscious, and voluntary agreement to engage in sexual activity.

**Decision-Maker:** The person who will oversee the live hearing and make a determination of responsibility. The Decision-Maker cannot be the Title IX Coordinator or the investigator.

**Formal Complaint:** A written complaint signed by the Complainant or Title IX Coordinator, alleging sexual harassment and requesting an investigation. If the Title IX Coordinator signs the formal complaint, he/she/they will not become a Party to the complaint.

**Parties: As** used in this procedure, this means the Complainant and Respondent.

**Respondent:** A Respondent is an individual reported to be the perpetrator of conduct that could constitute sexual harassment.

**Sexual Harassment under Title IX:** Conduct that satisfies one or more of the following:

- An Oregon Coast Community College employee conditions the provision of an aid, benefit, or service of Oregon Coast Community College on an individual's participation in unwelcome sexual conduct (*quid pro quo* harassment);
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Oregon Coast Community College's education program or activity;
- **Sexual assault, including the following:**
  - **Sex Offenses.** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
  - **Rape (except Statutory Rape).** The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their temporary or permanent mental or physical incapacity. There is carnal knowledge if there is the slightest penetration of the genital or anal opening of the body of another person.
  - **Sexual Assault with an Object.** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.
  - **Fondling.** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
  - **Sex Offenses, Non-Forcible Unlawful, Non-Forcible Sexual Intercourse.**
    - **Incest.** Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
    - **Statutory Rape – Non-Forcible.** Sexual intercourse with a person who is under the statutory age of consent. There is no force or coercion used in Statutory Rape; the act is not an attack.
  - **Dating violence.** Violence against a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a relationship will be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
  - **Domestic Violence.** Violence committed:
    - By a current or former spouse or intimate partner of the victim;
    - By a person with whom the victim shares a child in common;
    - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
    - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of Oregon; or
    - By any other person against an adult or youth victim protected from that person's acts under the domestic or family violence laws of Oregon.
  - **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of others or suffer substantial emotional distress.

## **Reporting Options**

Any individual may report sexual harassment to Oregon Coast Community College's Title IX Coordinator.

Oregon Coast Community College strongly encourages prompt reporting of sexual harassment. Prompt reporting allows for the collection and preservation of evidence, including physical evidence, digital media, and witness statements. A delay may limit Oregon Coast Community College's ability to effectively investigate and respond.

Because individuals may be deterred from reporting incidents of sexual harassment if alcohol, drugs, or other violations of Oregon Coast Community College or campus rules were involved, Oregon Coast Community College will inform individuals that the primary concern is for student and employee safety and that use of alcohol or drugs never makes a Complainant at fault for sexual harassment. An individual who participates as a Complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of Oregon Coast Community College's student conduct policy at or near the time of the incident, unless Oregon Coast Community College determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

Individuals have the opportunity to decide whether they want to pursue a formal Title IX complaint. Reporting sexual harassment to the Title IX Coordinator does not automatically initiate an investigation under these procedures. A report allows Oregon Coast Community College to provide a wide variety of support and resources to impacted individuals and to prevent the reoccurrence of the conduct. A Complainant or the Title IX Coordinator filing a formal complaint will initiate an investigation.

If there are parallel criminal and Title IX investigations, Oregon Coast Community College will cooperate with the external law enforcement agency and will coordinate to ensure that the Title IX process does not hinder legal process or proceedings.

Oregon Coast Community College will document reports of sexual harassment in compliance with the Clery Act, a federal law requiring data collection of crime within the campus geography. Under the Clery Act, Oregon Coast Community College does not document personal information; Oregon Coast Community College reports the type of conduct, and the time, date, and location. (Also see BP/AP 3540 Sexual and Other Assaults on Campus.

## **OCCC Employees and Officials with Authority**

OCCC Officials with Authority are not confidential resources and are required to report allegations of sexual harassment to the Title IX Coordinator promptly. All other employees are encouraged to report allegations to the Title IX Coordinator but are not required to do so.

The College has designated the following employees as Officials with Authority:

### Title IX Staff

- Vice President of Academic and Student Affairs
- Vice President of Administrative Services
- Director of Human Resources

Officials with Authority are required to report all relevant information they know about sexual harassment including the name of the Respondent, the Complainant, any other witnesses, and the date, time, and location of the alleged incident.

## **Receipt of Report**

After receiving a report of sexual harassment, the Title IX Officer will contact the Complainant and reporting party to explain rights under this policy and procedure and invite the Complainant to an in-person meeting. The Title IX Officer will discuss supportive measures with the Parties.

### **Timeframe for Reporting**

To promote timely and effective review, Oregon Coast Community College strongly encourages individuals to report sexual harassment as soon possible because a delay in reporting may affect the ability to collect relevant evidence and may affect remedies Oregon Coast Community College can offer.

### **Supportive Measures**

Supportive measures are non-disciplinary, non-punitive individualized services offered free of charge to the Complainant or the Respondent regardless of whether a formal complaint has been filed. Oregon Coast Community College will provide the Complainant and Respondent with options for, available assistance in, and how to request available supportive measures. Oregon Coast Community College will provide such measures to Complainant and Respondent as appropriate and as reasonably available to restore or preserve equal access to Oregon Coast Community College's education program or activities. These measures are designed to protect the safety of all Parties, protect Oregon Coast Community College's educational environment, or deter sexual harassment. Oregon Coast Community College will provide supportive measures on a confidential basis and will not disclose that Oregon Coast Community College is providing supportive measures except to those with a need to know to enable Oregon Coast Community College to provide the service. Supportive measures may include changes to academic, living, transportation, and working situation or protective measures such as counseling, extensions of deadlines, other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

### **Removal of Respondent Pending Final Determination**

Upon receiving a report regarding sexual harassment, the Title IX Coordinator will make an immediate assessment concerning the health and safety of the Complainant and campus community as a whole. Oregon Coast Community College has the right to order emergency removal of a Respondent, or if the Respondent is an employee, place the employee on administrative leave.

### **Emergency Removal**

Oregon Coast Community College may remove a non-employee Respondent from Oregon Coast Community College's education program or activity on an emergency basis after it conducts an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

Oregon Coast Community College may not use emergency removal to address a Respondent's threat of obstructing the sexual harassment investigation or destroying relevant evidence. Emergency removal is only available to address health or safety risks against individuals arising out of sexual harassment allegations, not to address other forms of misconduct that a Respondent might commit pending the processing of a complaint.

The Title IX Coordinator or designee will conduct the individualized safety and risk analysis.

If the Title IX Coordinator or designee determines emergency removal is appropriate, he/she/they or designee will provide the person Oregon Coast Community College is removing from campus on an emergency basis with a notice and opportunity to attend a meeting and challenge the basis of his/her/their removal. The Title IX Coordinator or designee will determine whether the emergency removal from campus order is warranted after considering information provided by the Respondent challenging the emergency removal.

### **Administrative Leave**

Oregon Coast Community College may place a non-student employee Respondent on administrative leave during the pendency of a grievance process described in the formal complaint process below. Oregon Coast

Community College will follow any relevant policies, procedures, collective bargaining agreements, or State law in placing an employee on administrative leave.



## **Formal Complaint Grievance Process**

### **Notice to Parties**

Upon receipt of a formal complaint, the Title IX Coordinator will provide the following notice in writing, to the Parties:

- Notice of Oregon Coast Community College's Title IX grievance process;
- Notice of the allegations of alleged sexual harassment with sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
- Statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- Notice that the Parties may have Advisor of their choice, who may be, but is not required to be, an attorney;
- Notice that the Parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which Oregon Coast Community College does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a Party or other source; and
- Inform the Parties of any provision in Oregon Coast Community College's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, Oregon Coast Community College decides to investigate allegations about the Complainant or Respondent that are not included in the notice provided above, the Title IX Coordinator will provide notice in writing of the additional allegations to the Parties.

### **Dismissal of Formal Complaint**

Oregon Coast Community College must investigate the allegations in a formal complaint. However, Oregon Coast Community College must dismiss the formal complaint and will not process the complaint under these procedures if any of the following three circumstances exist:

- If the conduct alleged in the formal complaint would not constitute Title IX sexual harassment as defined in this procedure;
- If the conduct alleged did not occur in Oregon Coast Community College's education program or activity;
- If the conduct alleged did not occur against a person in the United States.

Oregon Coast Community College has discretion to dismiss a formal complaint or any allegation under the following circumstances:

- If at any time during the investigation or hearing: a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations;
- If the Respondent is no longer enrolled or employed by Oregon Coast Community College; or
- If there are specific circumstances that prevent Oregon Coast Community College from gathering evidence sufficient to reach a determination regarding responsibility as to the formal complaint or allegations.

If Oregon Coast Community College dismissed the formal complaint or any allegations, the Title IX Coordinator shall simultaneously provide the Parties with written notice of the dismissal and reason. Oregon Coast Community College will also notify the Parties of their right to appeal.

Oregon Coast Community College may commence proceedings under other policies and procedures after dismissing a formal complaint.

### **Consolidation of Formal Complaints**

Oregon Coast Community College may, but is not required to, consolidate formal complaints as to allegations of sexual 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 sexual harassment arise out of the same facts or circumstances.

### **Equitable Treatment of the Parties**

Oregon Coast Community College's determination of responsibility is a neutral, fact-finding process. Oregon Coast Community College will treat Complainants and Respondents equitably. The procedures will apply equally to both Parties. Oregon Coast Community College will not discipline a Respondent unless it determines the Respondent was responsible for sexual harassment at the conclusion of the grievance process.

### **Statement of Presumption of Non-Responsibility**

The investigation is a neutral, fact-finding process. Oregon Coast Community College presumes all reports are in good faith. Further, Oregon Coast Community College presumes the Respondent is not responsible for the alleged conduct. Oregon Coast Community College makes its determination regarding responsibility at the conclusion of the grievance process.

### **Bias or Conflict of Interest**

Oregon Coast Community College's Title IX Coordinator, investigator, Decision-Maker, or any person designated by Oregon Coast Community College to facilitate an informal resolution process, will not have potential actual bias or conflict of interest in the investigatory, hearing, sanctioning, or appeal process or bias for or against Complainants or Respondents generally. Actual bias is an articulated prejudice in favor of or against one Party or position; it is not generalized concern about the personal or professional backgrounds, positions, beliefs, or interests of the Decision-Maker in the process. Oregon Coast Community College will ensure that the Title IX Coordinator, investigator, Decision-Maker, and facilitator receive training on:

- The definition of sexual harassment in this procedure;
- The scope of Oregon Coast Community College's education program or activity;
- How to conduct an investigation;
- The grievance process including conducting hearings, appeals, and informal resolution processes; and
- How to serve impartially, including avoiding: prejudgment of the facts at issue; conflicts of interest; and bias.

### **Timeline for Completion**

Oregon Coast Community College will undertake its grievance process promptly and as swiftly as possible. Oregon Coast Community College will complete the investigation and its determination regarding responsibility or the informal resolution process within 180 calendar days.

When appropriate, the Title IX Coordinator may determine that good cause exists to extend 180 calendar day period to conduct a fair and complete investigation, to accommodate an investigation by law enforcement, to accommodate the unavailability of witnesses or delays by the Parties, to account for Oregon Coast Community College breaks or vacations, or due to the complexity of the investigation. Oregon Coast Community College will provide notice of this extension to the Complainant and Respondent in writing and include the reason for the delay and anticipated timing of completion.

A Party may request an extension from the Title IX Coordinator in writing by explaining the reason for the delay and the length of the continuance requested. The Title IX Coordinator will notify the Parties and document the grant or denial of a request for extension or delay as part of the case recordkeeping.

### **Role of Advisor**

The role of the Advisor is to provide support and assistance in understanding and navigating the investigation process.

The Advisor may not testify in or obstruct an interview or disrupt the process. The Title IX Coordinator has the right to determine what constitutes appropriate behavior of an Advisor and take reasonable steps to ensure compliance with this procedure.

A Party does not have a right to self-representation at the hearing; an Advisor must conduct any cross-examination. Oregon Coast Community College must provide an Advisor of its choice, free of charge to any Party without an Advisor in order to conduct cross-examination. If an Advisor fails to appear at the hearing, Oregon Coast Community College will provide an Advisor to appear on behalf of the non-appearing Advisor. To limit the number of individuals with confidential information about the issues, each Party may identify one Advisor.

## **Confidentiality Agreements**

To protect the privacy of those involved, the Parties and Advisors are required to sign a confidentiality agreement prior to attending an interview or otherwise participating in Oregon Coast Community College's grievance process. The confidentiality agreement restricts dissemination of any of the evidence subject to inspection and review or use of this evidence for any purpose unrelated to the Title IX grievance process. The confidentiality agreement will not restrict the ability of either Party to discuss the allegations under investigation.

## **Use of Privileged Information**

Oregon Coast Community College's formal complaint procedure does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege (e.g., attorney-client privilege, doctor-patient privilege, spousal privilege, etc.), unless the person holding the privilege provides voluntary, written consent to waive the privilege.

## **Investigations**

The Title IX Coordinator is responsible to oversee investigations to ensure timely resolution and compliance with Title IX and this procedure.

Both Parties have the right to have an Advisor present at every meeting described in this section.

## **Trained Investigators**

Oregon Coast Community College will investigate Title IX formal complaints fairly and objectively. Individuals serving as investigators under this procedure will have adequate training on what constitutes sexual harassment and how Oregon Coast Community College's grievance procedures operate. Oregon Coast Community College will also ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence and complies with this procedure.

## **Burden of Gathering Evidence**

Oregon Coast Community College, not the Parties, has the responsibility to gather information and interview witnesses. As part of Oregon Coast Community College's burden of gathering evidence, Oregon Coast Community College's investigator will create an investigative report that fairly summarizes relevant evidence, whether it is inculpatory or exculpatory. The investigator shall not make findings or determinations of law or fact.

## **Notice of Investigative Interview**

Oregon Coast Community College will provide written notice of the date, time, location, participants, and purpose of all investigative interviews to a Party whose participation is invited or expected, with sufficient time for the Party to prepare to participate.

## **Evidence Review**

Both Parties have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which Oregon Coast Community College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a Party or other source.

Prior to the investigator preparing an investigative report, Oregon Coast Community College will make available to each Party and the Party's Advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The Parties will have at least ten days to submit a written response. The investigator must consider this written response prior to completing the investigative report.

## **Investigative Report**

The results of the investigation of a formal complaint will be set forth in a written report that will include at least all of the following information:

- A description of the circumstances giving rise to the formal complaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony of each witness the investigator interviewed;
- An analysis of relevant evidence collected during the investigation, including a list of relevant documents;
- A table of contents if the report exceeds ten pages; and



- Any other information deemed appropriate by Oregon Coast Community College.

The investigator will not make a determination regarding responsibility.

The investigator may redact information not directly related to the allegations or privileged information. However, the investigator will keep a log of information he/she/they do not produce to the Parties. The investigator will provide this log only to the Title IX Coordinator. The Title IX Coordinator will not disclose the log to the Parties but will maintain the log in the Title IX Coordinator's file, in the event it later becomes relevant.

At least ten days prior to a hearing, Oregon Coast Community College will send the investigative report to each Party and their Advisors, if any, the investigative report in an electronic format or a hard copy, for review and written response. The Parties will have at least ten days to submit a written response.

### **Hearing**

After completing an investigation and prior to completing a determination regarding responsibility, Oregon Coast Community College will hold a live hearing to provide the Complainant and Respondent an opportunity to respond to the evidence gathered before a Decision-Maker. Neither Party may choose to waive the right to a live hearing, but the Parties can choose whether to participate in the hearing or answer some or all cross-examination questions.

### **Notice**

If Oregon Coast Community College proceeds to a hearing, Oregon Coast Community College will provide all Parties written notice of the date, time, location, participants, and purpose of the hearing with sufficient time for the Party to prepare to participate.

### **Hearing Format**

Oregon Coast Community College may provide a live hearing with all Parties physically present in the same geographic location or, at Oregon Coast Community College's discretion if either Party or a witness requests, Oregon Coast Community College may provide any or all Parties, witnesses, and other participants the ability to appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other in real time.

Oregon Coast Community College will make the information reviewed during the Evidence Review available at the hearing for reference and consultation. Oregon Coast Community College will not restrict the ability of either Party to discuss the allegations under investigation or to gather and present relevant evidence.

Oregon Coast Community College will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the Parties for inspection and review.

The Decision-Maker shall provide an explanation of the meaning of the preponderance of the evidence standard and affirm that it shall apply to adjudications under this procedure. The preponderance of the evidence standard is met if Oregon Coast Community College determines that it is more likely than not that the alleged misconduct occurred, based on the facts available at the time of the decision.

### **Decision-Maker**

The Decision-Maker will be free from conflict of interest or bias, including bias for or against Complainants or Respondents. In cases where the Complainant or Respondent objects to the Decision-Maker on the basis of a conflict of interest, the Complainant or Respondent may request the Title IX Coordinator select a different Decision-Maker. The Complainant or Respondent must make this request to the Title IX Coordinator in writing at least five business days prior to the hearing.

The Decision-Maker may ask the Parties and the witnesses questions during the hearing. The Decision-Maker must objectively evaluate all relevant evidence both inculpatory and exculpatory and must independently reach a determination regarding responsibility without giving deference to the investigative report. The Decision-Maker must receive training on issues of relevance, how to apply the rape-shield protections for Complainants, and any technology to be used at the hearing.

## **Presenting Witnesses**

Oregon Coast Community College will provide the Complainant and Respondent an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Witnesses, like Parties, are not required to participate in the live hearing process.

Only relevant evidence will be admissible during the hearing. Relevant evidence means evidence, including evidence relevant to the credibility of a Party or witness, having any tendency in reason to prove or disprove any disputed fact material to the allegations under investigation.

## **Cross-Examination**

Oregon Coast Community College shall permit each Party's Advisor to ask the other Party and any witness relevant questions, including questions challenging credibility. The Party's Advisor must conduct cross-examination directly, orally, and in real time. A Party may never personally conduct cross-examination.

Before a Complainant, Respondent, or witness answers a question, the Decision-Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Decision-Maker need not provide a lengthy or complicated explanation in support of a relevance determination. If a Party or witness disagrees with a relevance determination, that individual has the choice of either (1) abiding by the Decision-Maker's determination and answering the question or (2) refusing to answer the question.

If a Party or witness does not submit to cross-examination at the live hearing, the Decision-Maker may admit any statement of that Party or witness in reaching a determination regarding responsibility. The Decision-Maker will give the statements whatever weight the Decision-Maker determines appropriate, bearing in mind that the statements have not been tested by cross-examination. In doing so, the Decision-Maker should consider, and if possible determine, whether the witness or Party made the statement and what the statement proves.

The Decision-Maker cannot draw an inference about the determination of responsibility based solely on a Party's or witness's absence from the live hearing or refusal to submit to cross-examination or to answer any questions. The Decision-Maker may also ask any Party or witness questions. If a Party or witness refuses to respond to a Decision-Maker's questions, the Decision-Maker is not precluded from relying on that Party or witness' statements.

## **Determinations of Responsibility**

When the Decision-Maker makes a determination of responsibility or non-responsibility, the Decision-Maker will issue a written determination regarding responsibility, no later than 20 business days after the date that the hearing ends.

When making a determination regarding responsibility, a Decision-Maker will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence. A Decision-Maker may not make credibility determinations based on an individual's status as a Complainant, Respondent, or witness. In evaluating the evidence, the Decision-Maker will use the preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, Oregon Coast Community College will decide whether it is more likely than not that sexual harassment occurred.

The written determination will include:

- Identification of the allegations potentially constituting Title IX sexual harassment as defined in these procedures;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including who conducted the investigation and gave notifications to the Parties. The determination will also state when, where, and the date the investigator interviewed the Parties and witnesses, conducted site visits, the methods used to gather other evidence. The procedural section should also discuss the dates and how the Parties were provided the opportunity to review and inspect evidence and the date of any hearings held and who attended the hearing;
- Findings of fact supporting the determination. In making these findings, the Decision-Maker will focus on analyzing the findings of fact that support the determination of responsibility or non-responsibility;

- Conclusions regarding the application of Oregon Coast Community College's code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- A statement of, and rationale for, any disciplinary sanctions Oregon Coast Community College imposes on the Respondent;
- A statement of whether Oregon Coast Community College will provide the Complainant with remedies designed to restore or preserve equal access to Oregon Coast Community College's education program or activity;
- Oregon Coast Community College need not disclose to the Respondent remedies that do not affect him/her/them as part of the written determination. Oregon Coast Community College can inform the Respondent that it will provide remedies to the Complainant. However, Oregon Coast Community College will inform the Complainant of the sanctions against the Respondent;
- Oregon Coast Community College's procedures and permissible bases for the Complainant and Respondent to appeal.

Oregon Coast Community College will provide the written determination to the Parties simultaneously. The determination regarding responsibility becomes final either on the date that Oregon Coast Community College provides the Parties with the written determination of the result of the appeal, if the Parties file an appeal, or if the Parties do not file an appeal, the date on which an appeal would no longer be timely.

### **Disciplinary Sanctions and Remedies**

Oregon Coast Community College must have completed the grievance procedures (investigation, hearing, and any appeal, if applicable) before the imposing disciplinary sanctions or any other actions that are not supportive measures against a Respondent. If the Decision-Maker determines the Respondent was responsible for conduct that constitutes sexual harassment, Oregon Coast Community College will take disciplinary action against the Respondent and any other remedial action it determines to be appropriate. The action will be prompt, effective, and commensurate with the severity of the offense.

Remedies for the Complainant might include, but are not limited to:

- Providing an escort to ensure that the Complainant can move safely between classes and activities;
- Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;
- Providing counseling services or a referral to counseling services;
- Providing medical services or a referral to medical services;
- Providing academic support services, such as tutoring;
- Arranging for a Complainant, if a student, to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
- Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant's discipline.

Possible disciplinary sanctions for student Respondents include written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Possible disciplinary sanctions for employee Respondents include written or verbal reprimand, required training or counseling, reduction in pay, demotion, suspension, or discharge.

### **Appeal of Dismissal of a Formal Complaint or of the Determination of Responsibility**

A Complainant or Respondent may appeal Oregon Coast Community College's determination regarding responsibility or the dismissal of a formal complaint or any allegations. A Complainant or Respondent must submit a written appeal within 10 business days from the date of the notice of determination regarding responsibility or from the date of Oregon Coast Community College's notice of dismissal of a formal complaint or any allegations.

## **Grounds for Appeal**

The College President will serve as the Decision-Maker on Appeal. In filing an appeal of Oregon Coast Community College's determination regarding responsibility or Oregon Coast Community College's dismissal of a formal complaint, the Party must state the grounds for appeal and a statement of facts supporting those grounds. The grounds for appeal are as follows:

- A procedural irregularity affected the outcome;
- New evidence was not reasonably available at the time Oregon Coast Community College's determination regarding responsibility or dismissal was made, and this new evidence could affect the outcome; or
- Oregon Coast Community College's Title IX Coordinator, investigator, or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome.

## **Appeal Procedure**

If the Complainant or Respondent submit an appeal to Oregon Coast Community College, Oregon Coast Community College will:

- Notify the other Party in writing within 5 business days of receiving a Party's appeal;
- Allow the non-appealing Parties at least 10 business days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome;

The appeal Decision-Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within 45 business days after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response. Oregon Coast Community College will provide the written decision simultaneously to both Parties.

The Decision-Maker on appeal may extend or otherwise modify the deadlines provided above. Either Party may seek an extension by submitting a written request to the appeal Decision-Maker explaining the need for the extension and the proposed length of the extension. The Decision-Maker will respond to the request within 48 hours in writing and will inform the Parties simultaneously whether the extension is granted.

## **Informal Resolution**

If Oregon Coast Community College determines that a formal complaint is appropriate for informal resolution, it may provide the Parties with the opportunity to participate in an informal resolution process, including mediation, at any time prior to reaching a determination regarding responsibility.

Oregon Coast Community College will provide the Complainant and Respondent written disclosure of the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the Parties from resuming a formal complaint arising from the same allegations, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Oregon Coast Community College must obtain the Parties' voluntary, written consent to the informal resolution process. If the Parties reach an agreement, Oregon Coast Community College does not have to complete a full investigation and adjudication of a report of sexual harassment. At any time prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

The informal resolution process is not available to resolve allegations that an employee sexually harassed a student.

## **Retaliation Prohibited**

Oregon Coast Community College prohibits retaliation, including intimidation, threatening, harassing, coercing, or any way discriminating against the individual(s) or subjecting the individual to a materially adverse action because of the individual's complaint or participation in the grievance process.

Anyone who is aware of possible retaliation or has other concerns regarding the response to a complaint should report such concerns via email, phone or USPS to:

Vice President for Academic & Student Affairs,  
Bruce Clemetsen, 541.867.8511 , [bruce.clemetsen@oregoncoast.edu](mailto:bruce.clemetsen@oregoncoast.edu)

or  
Director of Human Resources,  
Joy Gutknecht, 541-867-8515, [joy.gutknecht@oregoncoast.edu](mailto:joy.gutknecht@oregoncoast.edu)

Mail complaints in care of one of the above individuals at:  
400 SE College Way, Newport, OR 97366

The College is prepared to take any appropriate steps to protect individuals who have been subjected to or fear that they may be subject to retaliation. Students or employees who retaliate will face disciplinary action.

### **Dissemination of Policy and Procedures**

Oregon Coast Community College will provide its policy and procedures related to Title IX on its website and in each handbook or catalog provided to applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining with Oregon Coast Community College.

When hired, employees are required to sign acknowledging that they have received the policy and procedures. Oregon Coast Community College will place the signed acknowledgment of receipt in each employee's personnel file.

### **Training**

Oregon Coast Community College will provide training to Title IX Coordinators, investigators, Decision-Makers, and any individual who facilitates an informal resolution process, on the definition of sexual harassment, the scope of Oregon Coast Community College's education program or activities, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Any materials used to train Oregon Coast Community College's Title IX Coordinator, investigators, Decision-Makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

### **File Retention**

Oregon Coast Community College will retain on file for a period of at least seven years after closing the case copies of:

- The original report or complaint;
- Any actions taken in response to the complaint, including supportive measures;
- The investigative report including all evidence gathered and any responses from the Parties;
- Oregon Coast Community College's determination regarding responsibility;
- Audio or audiovisual recording or transcript from a hearing;
- Records of any disciplinary sanctions imposed on the Respondent;
- Records of any remedies provided to the Complainant;
- Any appeal and the result;
- Any informal resolution and the result; and
- All materials used to train Title IX Coordinators, investigators, Decision-Makers, and any person who facilitates an informal resolution process. Oregon Coast Community College will make these training materials publicly available on its website.

Oregon Coast Community College will make these documents available to the U.S. Department of Education Office for Civil Rights upon request.