

SEX/GENDER-BASED DISCRIMINATION AND HARASSMENT POLICY (TITLE IX)

Policy 3.95

Introduction

Glen Oaks Community College (“Glen Oaks” or “the College”) believes that every student and staff member, regardless of their gender, is entitled to equal educational opportunity and a safe environment in which to learn and work. This means that all members of the college community have the right to be free from all forms of sex/gender discrimination, harassment and retaliation. The term “sexual harassment” in this Policy includes sexual violence, dating and domestic violence, stalking, and any other form of discrimination based upon sex that would violate Title IX of the Civil Rights Act.

This Policy is intended to: define what qualifies as sexual discrimination, harassment and retaliation under Title IX; establish a mechanism for responding to complaints, including supportive measures that may be available to all involved parties; and outline the remedial efforts the College may take to end any sex discrimination, harassment or retaliation that has occurred, prevent its recurrence and address any continuing effects on an affected person.

SECTION 1: Scope and Jurisdiction of Policy

The College’s Sex/Gender-Based Discrimination and Harassment Policy prohibits discrimination and harassment based on sex in all education programs and activities that Glen Oaks operates, as required by Title IX and consistent with the College’s own mission and values.

For purposes of this Policy, the College’s “education programs and activities” include locations, events or circumstances over which Glen Oaks exercised substantial control over the person(s) accused of sexual harassment and the context in which the sexual harassment occurred; it also includes any building owned or controlled by Glen Oaks. This Policy also prohibits retaliation against a person who makes a good faith complaint of sex discrimination or harassment under this Policy. Alleged sexual harassment that occurred outside of the College’s education program or activity cannot be resolved through the grievance procedures described in this Policy but may be addressed through the College’s Code of Conduct.

All reports of sexual discrimination, harassment or retaliation will be handled by one of the College’s Title IX Coordinators:

Tonya Howden Title IX Coordinator Coordinator Student Services, A53 Office, A37 62249 Shimmel Rd. Centreville, MI 49032 49032 thowden@glenoaks.edu cbohacz@glenoaks.edu	Jamie Yesh Title IX Coordinator Administrative Office, A36 62249 Shimmel Rd. Centreville, MI 49032 jyesh@glenoaks.edu	Candy Bohacz Title IX Administrative 62249 Shimmel Centreville, MI
---	--	--

269-294-4230

269-294-4229

269-294-4232

Complaints under this Policy may be made to any of the Title IX Coordinators. The Title IX Coordinator in the

Student Services Office will take the lead role in administering this Policy but may involve the Title IX Coordinator(s) in the Administrative Office on complaints that involve employees or if the involvement of a different Title IX Coordinator is otherwise appropriate. In the event an incident involves alleged misconduct by a Title IX Coordinator, reports should be made to another Title IX Coordinator or the President of the College.

Individuals experiencing harassment or discrimination also have the right to file a formal complaint with government authorities:

Office for Civil Rights (OCR)
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline #: (800) 421-3481
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr> (<http://www2.ed.gov/about/offices/list/ocr/>)

U.S. Department of Justice Civil Rights Division
Educational Opportunities Section, PHB
Washington, D.C. 20530
Telephone: (202) 514-4092 or 1-877-292-3804 (toll-free)

SECTION 2: Definitions

Advisor: A person chosen by a party or appointed by the institution to accompany the party to meetings related to the grievance process, to advise the party on that process, and to conduct cross-examination for that party at the hearing as needed. This person may be, but need not be, an attorney.

Complainant: The individual who is alleged to be the victim of conduct that could constitute sexual discrimination or harassment.

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

Respondent: The individual who has been reported to be the perpetrator of conduct that would constitute sexual harassment or discrimination.

Sex Discrimination: Unequal treatment based on sex with respect to an individual’s access to or participation in the College’s education programs or activities, as prohibited by Title IX.

Sexual Harassment: “Sexual harassment” is conduct on the basis of sex where at least one of the following occurs:

- An employee of the College makes providing an aid, benefit or service of the College conditional upon an individual’s participation in unwelcome sexual conduct;
- There is unwelcome conduct on the basis of sex that a reasonable person would deem so severe, pervasive and objectively offensive that it effectively denies a person equal access to the College’s education program or activity; or
- An individual is subjected to “sexual assault,” as defined by the Clery Act, which is classified as a forcible or non-forcible sex offense

under the uniform crime reporting system of the Federal Bureau of Investigation. That is further defined as:

- Sex Offenses, Forcible: Any sexual act directed against another person without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent.
 - Forcible Rape:
 - Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
 - Forcible Sodomy:
 - Oral or anal sexual intercourse with another person forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - Sexual Assault with an Object:
 - The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - Forcible Fondling:
 - The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- Sex Offenses, Non-forcible:
- Incest: Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Michigan law. Statutory Rape is Non-forcible sexual intercourse with a person who is under the statutory age of consent of Michigan.
- An individual is subjected to "dating violence," defined in 34 U.S.C. 12291(a)(10) as:
- Violence on the basis of sex committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
 - For the purposes of this definition—
 - Dating violence includes, but is not limited to emotional, psychological, sexual or physical abuse or the threat of such abuse.
 - Dating violence does not include acts covered under the definition of domestic violence.
- An individual is subjected to "domestic violence," defined in 34 U.S.C. 12291(a)(8) as:
 - Violence on the basis of sex committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the

Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Michigan, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Michigan.

- To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.
- An individual is subjected to "stalking," defined in 34 U.S.C. 12291(a)(30) as:
 - Engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to fear for the person's safety, or the safety of others; or suffer substantial emotional distress.
 - For the purposes of this definition:
 - Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
 - Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.
 - Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Consent: clear, knowing and voluntary agreement. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable, clear permission regarding willingness to engage in (and the conditions of) sexual activity.

- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Previous relationships or prior consent cannot imply consent to future sexual acts.
- In order to give effective consent, one must be of legal age and have the mental/physical capacity to consent. A person may be unable to consent due to consumption of drugs or alcohol.

Gender Identity: Gender identity is the gender of which a person identifies which may not correspond with the gender assigned at birth.

Sexual orientation: Sexual identity in relation to the gender to which a person is attracted.

*This policy is applicable regardless of the sexual orientation and/or gender identity of the individual engaging in sexual activity.

Supportive measures: Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available and without fee or charge to the complainant or respondent. Supportive measures may be provided before or after a formal complaint has been filed or where no formal complaint has been filed. They are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party and include measures designed to protect the safety of the parties or campus environment or to deter sexual harassment. Examples of supportive

measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus and other similar measures. These measures will be kept confidential, to the extent maintaining that confidentiality does not impair the College's ability to provide the supportive measures.

Retaliation: the act of intimidating, threatening, coercing or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual made a report or complaint, testified, assisted or participated (or refused to participate) in any manner in an investigation, proceeding or hearing related to Title IX or this Policy. Intimidation, threats, coercion or discrimination – including making charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report of complaint of sex discrimination or a report or formal complaint of sexual harassment for the purpose of interfering with any right or privilege secured by Title IX – constitutes retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation. Nor is it retaliation to charge an individual with a Code of Conduct violation if the College finds that the individual made a materially false statement in bad faith in the course of a grievance proceeding under this Policy, provided that a determination regarding responsibility, standing alone, is not sufficient to conclude that any party made a materially false statement in bad faith. Retaliation will not be tolerated and may result in severe sanctions, including discipline, suspension, expulsion, termination of employment or revocation of tenure, or an additional charge.

SECTION 3: Reporting Sexual Harassment, Discrimination, or Retaliation

All college employees (faculty, staff, administrators) are expected to immediately report actual or suspected harassment, discrimination, or retaliation to a Title IX Coordinator, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, licensed counselors can maintain confidentiality – meaning they are not required to report actual or suspected harassment discrimination or retaliation to appropriate university officials - thereby offering options and advice without any obligation to inform an outside agency or individual unless a victim has requested information to be shared. Other resources exist for a victim to report crimes and policy violations and these resources will take action when an incident is reported to them. The following are two reporting options:

Confidential Reporting Options

If a reporting party would like the details of an incident be kept confidential, they should speak with a licensed counselor, members of the clergy and chaplains, or off-campus rape crisis resources. The college recommends contacting Domestic and Sexual Abuse Services at 1-800-828-2023 (crisis line). Those who are able to maintain confidentiality will do so except in extreme cases of immediate threat or danger or in the abuse of a minor.

If you are unsure of someone's duties and ability to maintain your privacy, ask them before you talk to them. They will be able to inform you of their duties, and help you make decisions about who can best assist you.

Personally identifiable information will be shared in the event that the incident reveals a need to protect you or other members of the community. If personally identifiable information is shared, it will only be shared as necessary with as few people as possible, and all efforts will be made to protect your privacy.

Formal reporting options

Reporting parties are encouraged to file a formal complaint of sex/gender-based harassment, discrimination or retaliation at www.glenoaks.edu (<http://www.glenoaks.edu/>) by clicking on the Report a Concern tab on the home page. This report submits to the College's Title IX Coordinator, who will review the allegations made and determine if they fall within the scope of this Policy or would constitute some other Code of Conduct violation. Reporting parties may also contact a Title IX Coordinator (as described above), or another school administrator, with whom the reporting party feels comfortable to make a complaint. Students and employees have the right to have incidents of sexual harassment, discrimination or retaliation investigated and properly resolved through a grievance process. Information will be shared as necessary with the Complainant, Respondent, and appropriate college administrators who play a role in the grievance process.

If a victim wishes to remain anonymous, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the victim may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. In cases indicating pattern, predation, threat, weapons and/or violence, the College will likely be unable to honor a request that no investigation take place, but will maintain confidentiality to the extent possible. In cases where the victim requests confidentiality and the circumstances allow the College to honor that request, the College will offer supportive measures, but will not otherwise pursue formal action. A complainant/reporting party has the right, and can expect, to have reports taken seriously by the College, and when formally reported, to have those incidents investigated and properly resolved through these procedures.

SECTION 4: College Reporting Obligations

Federal Statistical Reporting Obligations

Certain campus officials have a duty to report sexual misconduct for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location for publication in the annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: student/conduct affairs, campus law enforcement, local police, coaches, student activities staff, human resources staff, academic advisors, advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident using Clery location categories and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

Federal Timely Warning Reporting Obligations

Victims of sexual misconduct should also be aware that college administrators must issue immediate timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to any member of the campus community. The College will make every

effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger. The reporters for timely warning purposes are exactly the same as detailed in the above paragraph.

SECTION 5: Grievance Process for Sex Discrimination

Any student or staff member who believes that they have been subjected to (or witnessed) sex discrimination in any program or activity of the College should report that concern at www.glenoaks.edu (<http://www.glenoaks.edu/>) by clicking on the Report a Concern tab on the home page. This report goes to the College's Title IX Coordinator, who will review the allegations made and determine if they fall within the scope of this Policy or would constitute some other Code of Conduct violation.

Reporting parties may also contact a Title IX Coordinator (as described above) in person, by mail, by email or by using the contact information for the Title IX Coordinator described above. If the concern involves a Title IX Coordinator and you do not feel comfortable reporting to one of the other Title IX Coordinators, a report may be made to the President of the College.

Within five (5) business days of receiving a complaint, the Title IX Coordinator will determine whether any supportive measures are necessary, work on implementing those supportive measures, and initiate an investigation. The investigation, which will be conducted by the Title IX Coordinator or his/her designee, will include interviews of witnesses deemed necessary by the investigator as well as review of relevant evidence. Absent unusual circumstances (e.g., unavailability of witnesses), the investigation will be completed within 60 business days. At the conclusion of the investigation, the investigator will prepare a report that summarizes the factual evidence gathered and makes a determination of whether there is sufficient evidence to conclude—by a preponderance of evidence (i.e. “more likely than not”) - that sex discrimination occurred in one of the College's programs or activities.

If the Title IX Coordinator did not act as the investigator, the investigator will provide a copy of the Report to the Title IX Coordinator and the parties. Within five (5) business days of receiving the report, the Title IX Coordinator (if not the investigator) will adopt, modify or reject the investigator's conclusions and provide notice to the parties of that decision. The Title IX Coordinator will also determine what remedial actions (if any) may be necessary to end any sex discrimination that occurred, prevent its recurrence and redress any continuing effects of the discrimination.

Both parties will have the right to file a written appeal of the Title IX Coordinator's decision to the President of the College. An appeal must be submitted, in writing, to the Title IX Coordinator within five (5) business days after the date of the Title IX Coordinator's report or notification. The decision of the President is final.

Retaliation against a person for making a good faith complaint of sex discrimination is strictly prohibited. Any complainant who believes that he/she has been retaliated against for making a complaint of sex discrimination under this Policy should notify the Title IX Coordinator and that complaint will be handled according to the grievance procedures provided in this Section.

SECTION 6: Grievance Process for Sexual Harassment

A formal complaint of sexual harassment may be filed with the Title IX Coordinator in person, by mail, by email or by using the contact information for the Title IX Coordinator described above, but the College

strongly encourages submission of reports through the Report a Concern option at www.glenoaks.edu (<http://www.glenoaks.edu/>). The Title IX Coordinator reserves the right to file a formal complaint should the complainant decline to file a formal complaint. The Title IX Coordinators are the school officials charged with authority to institute corrective measures for violation of this Policy, but all College employees are obligated to report incidents of sexual harassment of which they become aware, unless they have a recognized confidentiality privilege, such as serving as a licensed counselor for the College. Further, students and guests who have observed or been made aware of sexual harassment are encouraged to report such incidents.

The formal complaint should clearly and concisely describe the conduct that the complainant believes constitutes sexual harassment; the identities of the parties involved in the incident, if known; the date and location of the incident, if known; and the desired remedy sought. The formal complaint should contain the name and contact information for the complainant if available. Any supporting documentation and evidence should be referenced within the body of the formal complaint. Additionally, the complainant should submit any supporting materials as quickly as is practicable.

Part I: Actions upon Receipt of a Formal Complaint

Upon receipt of a formal complaint, the Title IX Coordinator will:

1. Initiate the investigation process by reviewing the allegations contained in the formal complaint. The formal complaint will be dismissed for lack of jurisdiction if the conduct alleged (1) would not constitute sexual harassment, as defined by Title IX regulations and described in this Policy, even if proved; (2) did not occur in the College's education program or activity; or (3) did not occur against a person in the United States. The Title IX Coordinator will, however, consider whether the alleged conduct may violate the College's Code of Conduct, and if it may, refer the complaint for handling under the Code of Conduct.
2. Review if any immediate steps need to be taken for the safety of any student or other individual arising from the report of sexual harassment. If emergency removal is necessary due to an immediate threat to physical health or safety, the Title IX Coordinator will provide respondent(s) with notice of the decision to remove respondent(s) from campus and the opportunity to challenge the decision immediately following the removal.
3. Provide a Notice of Allegation to the parties of:
 - a. The College's grievance process, including the informal resolution process;
 - b. The sexual harassment allegations, including the identities of the parties involved, if known; the conduct alleged to be sexual harassment; and the date and location of the incident, if known. If, during the course of the investigation, the College decides to investigate additional allegations that were not included in this initial notice, the College will provide notice of those additional allegations to the parties.
 - c. The fact that the respondent is presumed not responsible for the alleged conduct and that a determination of responsibility will be made at the conclusion of the grievance process;
 - d. The parties' right to have an advisor of their choice, who may be, but is not required to be, an attorney and who will be permitted to inspect and review evidence obtained as part of the investigation that is directly related to the allegations made in the formal complaint;

- e. The provisions in the College's Code of Conduct that prohibits making false statements or knowingly submitting false information during the grievance process.
- 4. Provide supportive measures, as needed, to both the complainant and respondent.
- 5. Assign an investigator to the case
 - a) The investigator may be one or more individuals. If there is more than one investigator, they shall be present at all meetings. The assigned investigator(s) will have received all requisite training and will be free of bias and conflict of interest.
- 6. Monitor the investigation's progression and completion.

Part II: Formal Investigation Process and Protections

Within five (5) business days of the College's receipt of a formal complaint, the investigator will initiate an investigation. The investigator will ensure that the burden of proof and gathering of evidence rests on the College, not the parties, understanding that the College cannot access, consider, disclose or otherwise use a party's treatment records without that party's voluntary, written consent.

Each of the parties will have an equal opportunity to present evidence and witnesses, including fact and expert witnesses. The investigator will not restrict the ability of either party to discuss the allegations under investigation or their ability to gather and present relevant evidence.

The investigator will conduct interviews (and follow-up interviews, as needed) with the parties and relevant witnesses. Prior to any investigative interview or other meeting where a party is invited or expected to attend, the investigator will provide advance, written notice of the date, time, location, participants and purpose of the meeting, with sufficient time for the party to prepare to participate.

Absent unusual circumstances (e.g. school closure, unavailability of witnesses, delay caused by criminal investigation), the investigation will be completed within 60 business days. Any time the general timeframe for resolution outlined in this Policy will be delayed, the College will provide written notice to the parties of the delay, the cause of the delay, and the anticipated time needed as a result of the delay.

Part III: Investigation Meeting Details

1. Each meeting will be held privately and closed to the public. At no time during the investigation will the respondent and the complainant be in the same room.
2. These meetings are entirely administrative in nature and are not considered legal proceedings.
3. The parties will be allowed an advisor of their choice to be present during all administrative meetings and hearings.
 - a. The complainant and respondent must select an advisor of their choice, which, at their own expense, may include an attorney.
 - i. If either party does not have an advisor, the College will provide one at the request of the student at no cost to the involved party.
 - ii. All advisors provided by the college are employees who are trained to serve in this function. The college will not provide legal counsel for the student.
 - iii. If an involved party is a minor, a parent/guardian, as well as an advisor, may attend all meetings.
 - b. During investigative meetings, the advisor may only speak with their party in a way that does not disrupt the meeting. At no

time will they be allowed to speak on behalf of the party unless deemed necessary or appropriate by the Investigator.

Part IV: Investigation Summary Report

At the conclusion of the formal investigation, the investigator will complete an investigation summary report. Prior to completion of the report, the investigator will send each party and his/her advisor (by electronic format or hard copy) a copy of the evidence obtained during the investigation that directly relates to the allegations in the formal complaint, regardless of the source of that evidence or whether the investigator intends to rely upon it. The parties will be given at least 10 days to submit a written response, which the investigator will consider when completing the investigation report.

The investigation summary report, which will fairly summarize the evidence, will be provided to the complainant, respondent, and advisors at least 10 days prior to the live hearing. Both parties will have the opportunity to review that report and respond in writing.

At least 10 days after the investigation summary report was distributed to the parties, the investigator will submit the report (as well as the parties' responses to the report, if any) to the Hearing Chair.

Part V: Informal Resolution

As part of the College's formal grievance procedure, at any time after a formal complaint has been filed, the parties may agree to participate in an informal resolution process. Through that informal resolution process, the College would be authorized to facilitate a mediation or other informal resolution between the parties that would not involve a full investigation and adjudication. Informal resolution is *only* permitted where the College:

1. Provides a written Notice of Informal Resolution to the parties of (1) the allegations of the formal complaint, (2) the requirements of the informal process (including that a party may withdraw from the informal process at any time, but once the parties have agreed to a resolution, the parties may be precluded from resuming the formal complaint process - i.e., the full investigation and adjudication - based on the same allegations); and (3) any consequences that would result from participation in the informal resolution process, including that records may be maintained or shared;
2. Obtains both parties' voluntary, written consent to the informal resolution process;

Informal resolution may not be used to resolve complaints alleging that an employee sexually harassed a student. In cases where informal resolution is permitted, it will be strictly voluntary, and will not be required of any party as a condition of enrollment or continued enrollment; employment or continued employment or any other right.

Part VI: Hearing

For formal complaints, unless resolved through the informal resolution process, a live hearing will be conducted by a Decision-maker (or Decision-making Panel) before a determination of responsibility is made. The hearing may be conducted by a sole Decision-Maker or by a Decision-making panel, at the Title IX Coordinator's discretion. If there is a Panel, the Title IX Coordinator will select a Hearing Officer who will serve as the Chair of the Decision-making Panel. The Hearing Officer will manage the hearing and make evidentiary rulings.

At the live hearing, each party's advisor will have the opportunity to ask the party questions relevant to the allegations of the formal complaint. Questions about a complainant's sexual predisposition or prior sexual

behavior are not relevant, unless those questions or evidence: (1) are offered to prove that someone other than the respondent committed the conduct alleged by complainant; or (2) concern specific incidents of complainant's prior sexual behavior with respect to respondent and are offered to prove consent. Cross-examination of parties and witnesses will be conducted directly, orally and in real time, but a party or witness will not be required to answer any such question until the Hearing Officer has considered the question and deemed it relevant. If a question is deemed irrelevant, the Hearing Officer will explain why. A party may not directly cross-examine another party or witness.

Although the hearing will be conducted in a live setting and in real time, at the request of a party, the parties will be located in separate rooms with technology enabling the Decision-maker(s) and parties to simultaneously observe (through sight and sound) the witness answering questions. The College may also, in its discretion, conduct the live hearing virtually, with technology enabling participants to simultaneously see and hear each other. All live hearings – whether conducted with participants in the same geographic location or virtually – will be recorded audio visually or transcribed. That recording or transcript will be available to parties for inspection and review.

At the conclusion of the hearing, the Decision Maker (or Panel) will deliberate and determine if the respondent is responsible for the alleged violation, using the preponderance of evidence ("more likely than not") standard. In making this determination, the Decision-maker (or Panel) may consider statements made by parties and witnesses during the investigation, electronic exchanges between parties leading up to the alleged sexual harassment, and relevant statements about the alleged sexual harassment, regardless of whether the parties or witnesses submit to cross examination at the live hearing. The Decision-maker (or Panel) may also consider police reports, Sexual Assault Nurse Examiner documents, medical reports, and other documents even if those documents contain statements of a party or witness who is not cross-examined at the live hearing. The Decision-maker (or Panel) will not, however, make an inference about responsibility based solely on a party's or witness's absence or refusal to testify at the hearing. In other words, the Decision-maker (or Panel) will not assume that a respondent sexually harassed the complainant solely because the respondent refused to testify at the hearing; nor will the Decision-maker (or Panel) assume that the respondent did not sexually harass the complainant solely because the complainant refused to be cross-examined.

After reaching a determination of responsibility, the Decision Maker (or Panel) will simultaneously issue to both parties a written determination that:

1. Identifies the allegations potentially constituting sexual harassment under this Policy;
2. Describes the procedural steps taken by the College throughout the grievance process;
3. Provides findings of fact supporting the determination;
4. Provides conclusions regarding the application of the College's policy to the facts;
5. States the determination as to each allegation as well as the rationale for that determination; and
6. Explains the College's appeal procedures and bases for appeal.

Part VII: Sanctioning

Once the determination of responsibility is made, and if a party has been found responsible for violating this Policy, the Title IX Coordinator will

implement appropriate remedies to end the harassment, prevent its recurrence and redress the effects of the harassment experienced by the complainant.

Violations of this policy may result in sanctions and corrective actions, which can include, but are not limited to:

- Verbal warning
- Written warning
- Advisory letter
- Monitoring
- Disciplinary hold on academic and/or financial records
- Performance improvement/management process
- Required counseling or therapy
- Required training or education
- Campus access restrictions
- No trespass order issued by security (with respect to campus locations)
- No contact directive (with respect to an individual)
- Loss of privileges
- Loss of oversight, teaching or supervisory responsibility
- Probation
- Demotion
- Loss of pay increase
- Transfer (employment)
- Revocation of offer (employment or admissions)
- Disciplinary suspension
- Suspension with pay
- Suspension without pay
- Exclusion
- Expulsion
- Degree revocation
- Termination of employment
- Revocation of tenure
- Termination of contract (for contractors)

The College may assign other sanctions as appropriate in each particular situation.

Sanctions and corrective actions will be imposed in accordance with relevant policies and/or procedures and other requirements set forth in the applicable Staff/Faculty Handbooks, Student Handbook, collective bargaining agreements, other policies or handbooks that may be developed over time, or contracts.

In addition, the College may take steps to remediate the effects of a violation on victims and others. Following an investigation, the College may extend interim protective measures and accommodations, and/or take other measures to eliminate any hostile environment caused by the sexual harassment or misconduct, prevent the recurrence of any sexual harassment or misconduct, and remedy the effects of the sexual harassment or misconduct on the complainant and the College community. Such measures may include, but are not limited to, the interim measures and accommodations referenced in this policy, as well as counseling, training, and other preventative measures.

Part VIII: Appeal and Final Outcome

If either party disagrees with the determination of responsibility, the party or their advisor may file an appeal within 5 business days of the date stated on the Determination Letter.

Appeals are [only] permitted for the following reasons:

1. Procedural irregularity that affected the outcome;
2. New evidence, which was not reasonably available prior to the determination being made and which could affect the outcome, has become available;
3. The Title IX Coordinator, investigator(s) or decision-maker(s) had a conflict of interest or bias that affected the outcome.

The appeal should be titled "Appeal" and directed to the Title IX Coordinator, who will assign the appeal to an individual or Panel (not the Investigator, Title IX Coordinator or Decision-maker/Panel) who has received requisite training and is without conflict of interest or bias ("the Appellate Officer").

Once an appeal has been filed, each party will have the opportunity to submit a written statement in support of (or challenging) the outcome. That statement should be provided to the Title IX Coordinator within ten (10) days of the Determination Letter. The letter will then be forwarded to the Appellate Officer. The Appellate Officer will issue a written decision – simultaneously to both parties – describing the result of the appeal and rationale for the decision within ten (10) business days of the date the parties' written statements were due.

The determination of responsibility will be considered final when: (1) neither party files a written appeal with the Title IX Coordinator within the timeline for appeal required in this Part; or (2) the individual or Panel designated to decide the appeal has issued a written decision, whichever occurs last.

SECTION 7: Additional Policy Provisions

Attempted violations

In most circumstances, the College will treat attempts to commit any of the violations listed in this policy as violations of the policy.

College's Right to Sign a Formal Complaint

As necessary, the Title IX Coordinator reserves the right to sign a formal complaint without a formal complaint by the person alleging that respondent violated this Policy.

False Reports

Glen Oaks Community College will not tolerate intentional false reporting of incidents. It is a violation of this Policy, the Student Code of Conduct and employee handbook to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

Encouraging Reporting for Complainant, Respondents, and Witnesses

The college community encourages the open, honest and accurate reporting of violations of college policies, and understands that complainants, respondents or witnesses are sometimes hesitant to report to college officials or participate in grievance processes because they fear that they themselves may be charged with policy violations, such as underage drinking, that occurred at the time of the incident. To promote open, honest and accurate reporting, it is the College's policy *not* to impose disciplinary penalties on complainants, respondents,

and witnesses for minor policy violations related to the incident. While violations cannot be completely overlooked, the college will provide educational rather than punitive responses in such cases.

Right to Privacy

This Policy will be implemented consistent with students' rights under the Family Educational Rights and Privacy Act ("FERPA"), but to the extent any requirement of FERPA would conflict with a student's constitutional rights or rights under Title IX, the College will adhere to the constitution and/or Title IX.

Approved by the Board of Trustees 8/13/20, revised 8/25/21, reviewed 3/9/23