

# Coe College Title IX Sexual Misconduct Policy

*Last Updated August 2024*

Coe College is committed to providing a learning environment that is free of all forms of sexual misconduct. This document contains Coe College's policies and procedures for preventing, reporting, and responding to sexual misconduct and other forms of interpersonal violence. This guide also contains information about resources and remedies for all students, staff, faculty, and other members of the Coe College community who have experienced or been affected by prohibited conduct. Coe College does not discriminate on the basis of sex in its education programs or activities, including its admissions process and employment. Questions about the application of Title IX to Coe College may be referred to Coe College's Title IX Coordinator:

**Olivia Pendleton, Coe College Title IX Coordinator**

**Email:** [opendleton@coe.edu](mailto:opendleton@coe.edu); [titleix@coe.edu](mailto:titleix@coe.edu)

**Phone Number:** 319.399.8843

**Office Location:** Student Life Office, Upper Gage

All Coe College community members have a responsibility to adhere to Coe College's policies, as well as local, state, and federal law. This policy is not intended to create a contract and it is not to be construed to constitute any kind of contractual obligation between Coe College and any Coe College student, prospective student, employee, or prospective employee. Coe College may update, amend, supplement, rescind, or deviate from these policies as it deems appropriate. The policy will take effect when it is approved by administration and distributed by official notice.

## Types of Sexual Misconduct Prohibited by This Policy

**Sex Discrimination** occurs when persons are excluded from participation in, or denied the benefits of, employment, or any college program or activity because of their sex. Sex discrimination can include adverse treatment based on one's sex, as well as the other prohibited conduct outlined below. Sex discrimination includes discrimination on the basis of pregnancy, gender identity, and failure to conform to stereotypical notions of femininity and masculinity.

**Sexual Harassment** is conduct on the basis of sex that meets one of the following definitions:

- (1) **Quid Pro Quo Harassment**, which, as defined by Title IX, occurs when an employee of Coe College conditions the provision of an aid, benefit, or service (including education) on an individual's participation in unwelcome sexual conduct.
  - a. "Sexual conduct" includes sexual advances, requests for sexual favors, and other verbal, physical, graphic, or written conduct of a sexual nature.
  - b. "Conditions the provision of an aid, benefit, or service" on an individual's participation in unwelcome sexual conduct means that
    - Submission to sexual conduct is made, either explicitly or implicitly, a term or condition of an individual's educational opportunities (including aid, benefits, or services); or
    - Submission to or rejection of sexual conduct by an individual is used as a basis for educational opportunities affecting such individual; and/or
    - The unwelcome sexual conduct has the purpose or effect of unreasonably interfering with an individual's work or educational opportunities.

- c. A person's submission to unwanted sexual advances does not mean the sexual conduct was not "unwelcome," or prohibited quid pro quo harassment did not occur.
  - d. Other forms of quid pro quo harassment that are excluded from the Title IX definition, including inappropriate conduct that does not interfere with a person's participation in an education program or activity, such as conduct that affects a person's employment, or which is committed by a non-employee student, volunteer, or other Coe College community member, is prohibited, and is subject to the Anti-Harassment Policy in the College and Employment Policies document (<https://www.coe.edu/why-coe/discover-coe/human-resources/faculty-staff-resources>).
- (2) **Sexually Hostile or Sexually Harassing Environment** is defined by Title IX as unwelcome conduct by a Coe College student or employee that a reasonable person would find to be so severe, pervasive, and objectively offensive that it denies a person equal access to an education program or activity.
- a. "Unwelcome conduct" includes conduct that is based on a person's sex.
  - b. Conduct that is "severe, pervasive, and objectively offensive" may include one or more instances of conduct that has the effect of interfering with a person's participation in classroom, academic, or educational activities or programs, including athletics and college-sponsored extra-curricular programming.
  - c. The policy does not prohibit students and faculty from discussing or communicating about topics in the academic context that involve sexual issues, even if the discussion offends some people who overhear it.
  - d. Other harassing conduct that is offensive, but does not meet the definition above or interferes only with a person's non-educational activities (such as certain employment), is prohibited and is subject to the Anti-Harassment Policy in College and Employment Policies document (<https://www.coe.edu/why-coe/discover-coe/human-resources/faculty-staff-resources>).
- (3) **Sexual Assault (including rape)** is actual or attempted sexual contact with another person without the person's affirmative consent. Sexual assault includes the sexual conduct commonly known as rape, whether forcible or non-forcible. Either males or females can be aggressors in sexual assault and sexual assault can occur in same-sex relationships. Sexual assault includes but is not limited to:
- a. Intentional touching of another person's intimate body parts without that person's consent; or
  - b. Other intentional sexual contact with another person without that person's consent; or
  - c. Coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's consent; or
  - d. Rape, which this policy defines as penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person's consent.
- (4) **Relationship (Dating and Domestic) Violence** is abuse, violence, or intentionally controlling behavior between partners or former partners involving one or more of the following elements: (1) battering that causes bodily injury; (2) purposely or knowingly causing reasonable apprehension of bodily injury; (3) emotional abuse creating apprehension of bodily injury or property damage; (4) repeated telephonic, electronic, or other forms of communication anonymously or directly — made with the intent to intimidate, terrify, harass, or threaten. Relationship violence can occur in all types of relationships (e.g., heterosexual, same sex, or any other type of relationship).

- (5) **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for his or her safety or the safety of others or (2) suffer substantial emotional distress. Stalking may take the form of harassing telephone calls, computer communications, letter-writing, etc. Stalking includes the activities generally associated with cyber stalking, a particular form of stalking in which electronic and social media, including social networks, blogs, cell phones, texts, or other similar electronic communication is used.

A violation of this policy occurs when a person engages in any of the above behaviors and the conduct occurs in Coe College's education programs or activities, in a location that is under Coe College's substantial control (including its campus, buildings, or in a Coe College-sponsored event or program), or interferes or affects a person's participation in an education program or activity within the United States or its territories.

Education programs or activities of Coe College includes Coe College's campus, buildings, residence halls; Coe College's events or programs; and off-campus locations that are subject to substantial control by Coe College. This includes conduct that occurs in any building owned or controlled by a student group that is officially recognized as a Coe College student group, including Greek Life organizations.

Note that many other behaviors may violate other general college policies. This would include sexual misconduct involving a Coe College student that occurs in a location that is not owned or substantially controlled by Coe College; sexual misconduct in the workplace; sexual misconduct that occurs in international study abroad programs and programs subject to the substantial control of another organization or individual; sexual misconduct that does not meet the definition of "sexual misconduct" under this policy; harassment or discrimination based on other protected characteristics, such as race, skin color, religion, age, disability, national origin; and other conduct that is prohibited by Coe College. Other prohibited conduct is subject to the policies and disciplinary process in the Student Handbook, available at: <https://www.coe.edu/student-life/student-life-resources/college-policies-student-handbook>, the Staff Handbook, the Faculty Handbook, and/or the College and Employment Policies all available at <https://www.coe.edu/why-coe/discover-coe/human-resources/faculty-staff-resources>.

For disciplinary proceedings that do not qualify as sexual misconduct under this policy, all disciplinary and termination or expulsion procedures will be guided by the Faculty Handbook, Staff Handbook, or Student Handbook that corresponds with the faculty, staff, or student status of the person being reprimanded. Faculty and staff may contact the Director of Human Resources with questions about the policies and disciplinary procedures in the Staff Handbook and the Faculty Handbook. Students may contact the Dean of Students with questions about the Student Handbook. If there is a question about which policy applies to a report or concern, the Title IX Coordinator, Director of Human Resources, and Dean of Students will determine which of the handbooks, policies, and disciplinary procedures applies.

### **Other Important Concepts and Definitions**

**Force** is the use or threat of physical violence or intimidation to overcome an individual's freedom to choose whether or not to participate in sexual activity.

**Coercion** is direct or implied threat of force, violence, danger, hardship or retribution sufficient to persuade a reasonable person of ordinary susceptibility to perform an act which otherwise would not have been performed or acquiesce in an act to which one would not have submitted. Coercion can include unreasonable and sustained pressure for sexual activity.

When someone makes it clear that they do not want to engage in sexual activity, that they want it to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point is considered coercion.

### **Incapacitation**

Incapacitation is the inability, temporarily or permanently, to give consent (affirmative or otherwise), because that individual is mentally and/or physically helpless, asleep, unconscious, or unaware that the sexual activity is occurring. An incapacitated individual lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity. A person who is incapacitated is unable to and cannot give consent to sexual activity. Incapacitation may result from ingestion of a legal or illegal drug or alcohol. Coe College prohibits the possession, use, and or distribution of drugs that are intended to incapacitate, including Rohypnol, Zolpidem, Ketamine, GHB, Burundanga, etc.

The perspective of a reasonable person will be the basis for determining whether a respondent knew or should have been aware of the extent and amount of the ingestion of alcohol and/or drugs by the complainant or of the extent to which the use of alcohol and/or drugs impacted a complainant's ability to give consent.

### **Affirmative Consent**

This policy is based on affirmative consent. Consent to engage in sexual activity must be given knowingly, voluntarily, and affirmatively. Consent to engage in sexual activity must exist from the beginning to end of each instance of sexual activity, for each form of sexual contact, and by each participant in a sexual encounter. Consent to one form of sexual activity does not constitute consent to engage in all forms of sexual activity. Consent must be demonstrated through mutually understandable words and/or clear, unambiguous actions that indicate a willingness to engage freely in sexual activity. A person who is incapacitated cannot give affirmative consent.

Consent is active, not passive. Consent cannot be inferred from silence, passivity, lack of resistance, nonverbal cues, or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. Relying on non-verbal communication can lead to misunderstandings or potential policy violations.

Consent can be withdrawn by either party at any time. Withdrawal of consent can also be outwardly demonstrated by mutually understandable words and/or clear, unambiguous actions that indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.

Individuals with a previous or current intimate relationship do not automatically give initial or continued consent to sexual activity. Even in the context of a relationship, there must be mutually understandable communication that clearly and unambiguously indicates a willingness to engage in sexual activity. In the State of Iowa, consent can never be given by minors under the age of 16, with two provisions: First, a person 13 years of age or younger is considered to be a "child" under Iowa Code, section 702.5 and thus, incapable of consent. Second, for the ages of 14 and 15, the consenting partner must be less than 5 years of age apart from the teen.

### **Complainant**

The person(s) or group making the allegations of sexual misconduct.

### **Respondent**

The person(s) or group against whom a complaint of sexual misconduct has been made.

## Privacy and Confidentiality

In any complaint, investigation, hearing, appeal, or resolution of a complaint under the sexual misconduct policy, Coe College will make every effort to protect the privacy of all individuals involved in the sexual misconduct complaint consistent with a need for a thorough review of the reported conduct. Information related to a report under the sexual misconduct policy will only be shared with those college employees and students who need to know in order to assist in the review, investigation, administrative proceeding, appeal, or resolution of a complaint. College employees and students who are involved in the review, investigation, administrative proceeding, appeal, or resolution proceedings receive specific training and guidance about safeguarding private information.

Privacy of a student's educational records are all protected under the Family Educational Rights and Privacy Act (FERPA). The privacy of an employee and student's medical and related records are protected by the Health Insurance Portability and Accountability Act (HIPAA), excepting health records protected by FERPA. Access to college staff or faculty personnel records is restricted in accordance with relevant Coe College policies.

Information shared by an individual with designated college or community professionals (such as those explicitly listed in this policy as "confidential resources") cannot be revealed to any other person without express permission from the individual, or as otherwise permitted or required by law. Individuals wishing to seek confidential assistance may do so by speaking with professionals or individuals who have a statutorily protected or designated confidentiality relationship. These individuals are prohibited from breaking confidentiality unless (1) given permission to do so by the person who disclosed the information to them; (2) there is an imminent threat of harm to self or others; (3) the conduct involves suspected abuse of a minor under the age of 18; or (4) as otherwise required or permitted by law or court order.

All employees of the college who are not confidential resources (see above), as well as students in leadership positions or volunteers responsible for the welfare of other students, are **required** to share information about prohibited conduct under this policy with the Title IX Coordinator and are considered mandatory referrers. This means they are required to inform the Title IX Coordinator if they witness sexual misconduct or if they otherwise receive any information that indicates sexual misconduct has occurred involving a member of the Coe College community. Community members, including those who are not current Coe College faculty, staff, or students, are encouraged to speak to officials of the institution to make formal reports of incidents. Those who share information with the college have the right to have incidents of sexual misconduct taken seriously when formally reported and to have those incidents investigated, as well as properly resolved through administrative procedures.

Reporting does not mean that information won't be kept private and confidential. Coe College will ensure your privacy to the extent possible while conducting its investigation. As such, only the people who need to know any given information will be told, and information will be shared only as necessary with investigator(s), witnesses, the accused, and the complainant. The circle of people will be kept as tight as possible to preserve rights and privacy. Community members may bring a victim advocate or advisor to all phases of the investigation and campus conduct proceeding.

The complainant and respondent are able to share details about their case with others as they see fit. The institution cannot compel complainants and respondents to keep details of their case confidential. Witnesses are prohibited from sharing details about a case they are involved in and are required to keep all information confidential. Witnesses who want to talk about a case they are involved in should seek out the Title IX Coordinator or a confidential resource for support.

Notwithstanding a complainant or respondent's right to speak and share details about their case, they are prohibited from doing so for the purpose of retaliation, or to intimidate, threaten, coerce, or discriminate against an individual because they exercised their right to lodge a report or formal complaint under Title IX or this policy.

### **Filing a Report of Sexual Misconduct.**

If any member of the Coe College community believes another member of the community has violated the Title IX Sexual Misconduct Policy, or engaged in sex discrimination or other sexual misconduct within or outside of an education program or activity, they may file a report with Coe College.

Except for the designated confidential resources, Coe College faculty and staff are required to report violations of this policy. The report should include sufficient information to enable Coe College to understand the nature of the report and complete an initial assessment, discussed below. Title IX prohibits Coe College from disciplining or sanctioning an individual for engaging in sexual misconduct unless a formal complaint is filed and the grievance procedure in the Title IX Sexual Misconduct Policy is followed. Formal complaints and the grievance procedure for sexual misconduct is discussed below. The Title IX Coordinator will inform individuals who file a report of sexual misconduct about their right, if any, to file a formal complaint. No one is required to file a formal complaint of sexual misconduct.

To report an incident of sexual misconduct, it is recommended you report to one of the following:

- Title IX Coordinator, 319-399-8843, Upper Gage Memorial Union, [titleix@coe.edu](mailto:titleix@coe.edu)
- Deputy Title IX Coordinator, 319-399-8843, Upper Gage Memorial Union, [titleix@coe.edu](mailto:titleix@coe.edu)
- Dean of Students, 319-399-8843, Upper Gage Memorial Union, [dos@coe.edu](mailto:dos@coe.edu);
- Human Resources, 319-399-8100, Lower Voorhees Hall, [o-hr@coe.edu](mailto:o-hr@coe.edu)

Coe College provides the opportunity to submit an anonymous report. Individuals wishing to submit an anonymous report can do so by completing the following form hosted on Coe College's website: <https://www.coe.edu/title-ix>.

Some individuals may wish to keep their concerns confidential or are not prepared to make a report, but still want to seek information and support. Sharing with a confidential resource means that those communications cannot be legally disclosed to another person, without the consent of the person sharing the information. These confidential resources can be used as a resource regardless of whether the individual chooses to report to Coe College. Here is the list of Coe College's confidential resources:

Emily Barnard, Assistant Dean of Health & Wellness, Counselor .....	(319)399-8843
Pastor Jayne M. Thompson, Chaplain.....	(319)399-8843
Cathy Muller, Student Care Coordinator & Counselor.....	(319)399-8843
Ivy Martinson, Certified Medical Assistant, Health Services.....	(319)399-8617
Kayla Waskow, Athletics .....	(319)399-8265

Coe College recognizes that some forms of sexual misconduct may also be crimes under Iowa criminal statutes. Students, faculty, and staff always have the option of reporting incidents to local police officials, and if desired, Coe College will assist in notifying law enforcement authorities. Reporting incidents to local law enforcement or to Coe College does not require anyone to press charges in either arena against the accused student, faculty, or staff member.

Neither law enforcement's determination whether or not to prosecute a respondent, nor the outcome of

any criminal proceeding, are determinative of whether Coe College can or will determine that sexual misconduct has occurred under this policy. Proceedings under this policy can be carried out prior to, simultaneously with, or following any civil or criminal proceedings in the courts, though a pending criminal investigation does not relieve Coe College of its responsibilities under the law. Coe College has jurisdiction over incidents that occur on campus during an official college program or activity (regardless of location) or off-campus in an environment that is subject to Coe College's substantial control, such as locations or events sponsored by Coe College or a student group officially recognized by Coe College.

Reporting parties and witnesses are encouraged to report sexual misconduct as soon as possible in order to maximize the Coe College's ability to respond promptly and effectively. By reporting the sexual misconduct, you help protect yourself and others from future harm. Reporting an issue is the best way for Coe College and the community to help an individual receive the resources and supportive measures available to them. Reporting the incident is a separate step from filing a formal complaint and initiating the Title IX Sexual Misconduct grievance procedure. At the time a report is made, a complainant does not have to decide whether or not to file a formal complaint. The complainant will also be provided with a written document explaining their right to file a formal complaint, the grievance procedure, their rights and options, and available resources.

If you experience or encounter prohibited conduct and wish to seek emergency assistance, dial 911. If you wish to speak to law enforcement about a concern related to sexual misconduct, you may also call the Cedar Rapids Police Department at: (319)286-5378 or report a crime electronically by using this link: [http://www.cedar-rapids.org/local\\_government/departments\\_g\\_-\\_v/police/report\\_a\\_crime\\_form.php](http://www.cedar-rapids.org/local_government/departments_g_-_v/police/report_a_crime_form.php)

An incident of sexual misconduct does not have to occur on campus to be reported to Coe College. Furthermore, Coe College understands that some incidents of sexual misconduct involve interactions between only the complainant and the respondent and are not witnessed by other people. Lack of corroborating evidence or witness accounts should not discourage individuals from reporting sexual misconduct. Reports of sexual misconduct will be assessed, and if a formal complaint is filed, the grievance procedure outlined below will apply even when the only individuals involved are the complainant and the respondent.

Coe College knows that the decision whether or not to report sexual misconduct is personal and that there are many barriers, both individual and societal, to reporting. Coe College will approach the initial assessment of any report with a sincere effort to understand the perspective and experiences of each individual involved. Coe College officials will make every effort to respect the complainant's autonomy in making decisions and provide support that will allow the complainant to provide a full, detailed, and accurate report that will aid college officials in assessing the report.

## **Responding to a Report of Sexual Misconduct**

Within seven calendar days of receiving a report, Coe College will:

- Inform the complainant, in writing, of any right to file a formal complaint and will explain the procedure for doing so.
- Inform the complainant of measures that may restore or preserve an individual's access to their education, education program or activities, or other matters, without the filing of a formal complaint.
- Offer supportive measures in response to a report. If circumstances do not permit Coe College to offer supportive measures in response to a report, such as in cases where a complainant wishes to remain anonymous or will not respond to follow-up contact from Coe College, Coe College will document the reason it could not offer supportive measures.

During the reporting process, a complainant may choose not to have their identity divulged. Individuals may make an anonymous report without disclosing their name, identifying the party who engaged in sexual misconduct (if known) or requesting any action. Depending on the level of information available and the complainant's willingness to divulge their identity, anonymity may impact Coe College's ability to address prohibited conduct. If an individual wishes to file a formal complaint of sexual misconduct, Title IX regulations require Coe College to identify the name of the complainant in the notice that is issued to a respondent.

### **Interim or Supportive Measures Following a Report of Sexual Misconduct**

Within seven calendar days of receiving a report, the college will contact the complainant to discuss the availability of potential non-disciplinary, non-punitive individualized services for the complainant. These interim or supportive measures are intended to restore or preserve a person's equal access to Coe College's education programs or activities. Any interim or supportive measure will be designed to protect the safety of all members of the Coe College community and to deter sexual misconduct. Interim or supportive measures are available to a complainant whether or not the complainant chooses to file a formal complaint. Interim or supportive measures may also be available to an individual who allegedly engaged in sexual misconduct, as well.

Potential interim or supportive measures include, but are not limited to:

- Access to medical or counseling services on and off campus;
- Imposition of a college no contact order;
- Assistance in obtaining a civil protection order;
- Facilitating a meeting with law enforcement;
- Rescheduling of exams and assignments;
- Providing alternative course completion options;
- Changing class schedules or transferring sections, including dropping a course without penalty;
- Changing work or job assignments or schedules;
- Changing housing locations;
- Assistance in other relocation;
- Limiting an individual or organizations' access to college facilities or participation in college activities;
- Voluntary leave of absence;
- Providing an escort to and from classes, work, home, or activities;
- Providing academic support services;
- Emergency removal from campus or program following individualized safety and risk analysis discussed below

A complainant may request specific interim or supportive measures when making a sexual misconduct report at any point during the process. In order for Coe College to consider implementing any interim or supportive measures, a concerned party must first speak to a member of Coe College's Title IX team. Coe College is obligated to provide reasonable interim or supportive measures regardless of whether a report has been made to local law enforcement. Requests for interim or supportive measures should be made to the Title IX Coordinator. Coe College will keep interim or supportive measures confidential to the greatest extent possible. If it is necessary to disclose personal information to provide an interim or supportive measure, Coe College will endeavor to notify the complainant before doing so. Coe College may also impose interim or supportive measures of its own volition.



Additionally, if a complainant has obtained a court order related to an individual who allegedly engaged in sexual misconduct, the complainant should provide such information to the Title IX Coordinator. The college will take all reasonable and legal action to assist with compliance of the order.

### **Initial Assessment and Individualized Safety/Risk Analysis**

The Title IX Coordinator and other administrators will ensure that Coe College responds to every sexual misconduct report in a timely manner that treats every individual with respect and promotes safety for the parties and the Coe College community.

The first step in response to a sexual misconduct report is an initial assessment. The initial assessment will consider the nature of the report, the complainant's preferences for resolution, and the most appropriate course of action given the information available. The appropriate course of action may change over time, as further information gathering, analysis, or investigation reveal more information surrounding the alleged sexual misconduct. If a complainant decides against filing a formal complaint, the decision on how to move forward with the information will be made by the Title IX Coordinator or another designated official. At the initial assessment stage and throughout any investigation or disciplinary proceeding, only those who "need to know" are given information about the issues.

Coe College's initial assessment and individualized safety/risk analysis will include review of safety issues for the parties and the Coe College Community. If Coe College determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations in any report justifies removal of an individual from campus, Coe College will promptly notify the affected individual and remove the individual from campus or the relevant program. Immediately following the removal, Coe College will give the removed individual the opportunity to challenge the removal in instructions included in the notice of removal.

### **Conflict of Interest**

Upon receipt of a report of Sexual Misconduct, identified conflicts of interest will be disclosed to Coe College, addressed and, if necessary, other appropriate individuals will be designated to fill the role of a potentially conflicted official. Responses to reports of sexual misconduct are conducted by individuals who receive training on issues related to sexual misconduct.

### **Filing a Formal Complaint of Sexual Misconduct**

Individuals who believe that sexual misconduct has occurred may file a "formal complaint" of sexual misconduct. A formal complaint of sexual misconduct is subject to the grievance procedure in the Title IX Sexual Misconduct Policy, discussed below, and must be investigated. Coe College students, faculty, staff, administrators, and others may be subject to a formal complaint of sexual misconduct.

To file a formal complaint, a complainant must sign by hand or by digital signature, a document that alleges sexual misconduct against a respondent and request that Coe College investigate the allegations of sexual misconduct. Title IX only permits individuals who are participating, or are attempting to participate, in an educational program or activity of Coe College, to file a formal complaint. This would include, but is not limited to, current students of Coe College, applicants for enrollment to Coe College, and other individuals who participate, or are attempting to participate in Coe's educational programs or activities.

Coe College's formal complaint form is available [www.coe.edu/title-ix](http://www.coe.edu/title-ix).

Individuals who wish to file a formal complaint can submit a completed formal complaint by email, by mail, or in person by submitting it to the Title IX Coordinator, who is available at:

**Olivia Pendleton, Coe College Title IX Coordinator**

**Email:** [opendleton@coe.edu](mailto:opendleton@coe.edu); [titleix@coe.edu](mailto:titleix@coe.edu)

**Phone Number:** 319.399.8843

**Office Location:** Student Life Office, Upper Gage

Upon receipt of a report of sexual misconduct, discussed above, Coe College's Title IX Coordinator may sign a formal complaint to initiate the grievance procedure in the Title IX Sexual Misconduct Policy, even where no person who alleges to be the victim of sexual misconduct wishes to file a formal complaint. Before doing so, the Title IX Coordinator will consider the complainant's wishes and evaluate whether investigation is reasonable under the circumstances.

### **Grievance Procedure When a Formal Complaint is Filed**

#### **Time Period for Grievance Procedure**

Coe College will endeavor to complete the grievance procedure following receipt of a formal complaint within ninety calendar days of receiving a formal complaint. Coe College may temporarily delay or extend the grievance procedure when good cause exists to do so. If a delay occurs, Coe College will provide written notice to the parties about the delay or extension and the reasons for any delay or extension. "Good cause" for a delay or extension may include the absence or unavailability of a party, an advisor, or a witness. "Good cause" may also include law enforcement activity, the need for language assistance, or accommodating an individual's disability.

#### **Dismissal of Formal Complaint**

Within seven calendar days of receipt of a formal complaint, the Title IX Coordinator will evaluate the allegations. Title IX regulations require that Coe College dismiss the formal complaint if the alleged conduct does not meet the definition of sexual misconduct under Coe College's Title IX Sexual Misconduct Policy, if the conduct did not occur in Coe College's education program or activity, or if the conduct did not occur against a person in the United States. If a dismissal occurs, the grievance procedure will not apply. In such circumstances, Coe College or the complainant may take action to respond to the allegations in the report under the Student Handbook, Staff Handbook, Faculty Handbook, or College and Employment Policies.

Coe College may also, in its discretion, dismiss a formal complaint at any time during the grievance procedure under any of the following circumstances:

- The complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or allegations in the formal complaint; or
- The respondent is no longer enrolled or employed by Coe College; or
- Specific circumstances prevent Coe College from gathering evidence sufficient to reach a determination about the formal complaint or allegations in the formal complaint.

#### **Notice to the Respondent of a Formal Complaint**

Within seven calendar days of receiving a formal complaint and after determining whether Coe College must dismiss the formal complaint, the Title IX Coordinator or their designee will meet with a respondent, if possible.

The Title IX Coordinator or their designee will also issue a notice to the respondent that an alleged incident of sexual misconduct has been reported to the college, and a formal complaint has been filed.

Notice to a respondent of a formal complaint will include:

- The allegations of sexual misconduct, including details known at the time of the notice that enable a respondent to understand the nature of the allegations. This includes:
  - The identity of the parties involved in the incident, if known
  - A description of the alleged sexual misconduct
  - The date of the alleged sexual misconduct, if known
  - The location of the alleged sexual misconduct, if known
- Notice that the respondent is presumed not responsible for the alleged sexual misconduct
- Notice that a determination on responsibility for the alleged sexual misconduct will be made at the conclusion of the grievance procedure
- Each party to a formal complaint has the right to an advisor of their choice, who may be, but is not required to be, an attorney
- Each party may inspect and review all evidence collected in the investigation prior to a determination of responsibility for sexual misconduct
- Interim or supportive measures available to complainants or respondents
- Knowingly making false statements or submitting false information during the grievance procedure is prohibited
- Coe College's grievance process for formal complaints
- Coe College's informal resolution procedure

If, in the course of an investigation, Coe College decides to investigate allegations about any party that are not included in the initial notice, Coe College will issue an amended notice of any additional allegations to all known parties.

Respondents in a sexual misconduct grievance procedure are expected to participate in the process. The grievance procedure will still occur even if a respondent chooses not to participate or chooses to leave Coe College.

### **Advisor**

Complainants and respondents are entitled the same opportunities to consult with and be accompanied by one advisor of their choice throughout each and every step in the sexual misconduct grievance procedure. This includes assistance in the preparation of any written materials, attending any meeting with the investigator(s), hearing officer, or other college personnel, and the hearing.

However, an advisor may not actively participate in any meeting or proceedings other than the hearing, described below. The advisor may be any individual, such as a teacher, mentor, friend, parent, or an attorney, who is not a witness or otherwise involved in the events that are the subject of the report or is otherwise involved in the disciplinary process under this policy. The advisor can be a trained victim advocate through a community agency such as the Riverview Center.

Aside from the hearing, advisors are not permitted to speak to, question, or otherwise communicate with other parties or witnesses during the course of any investigation without express authority from the Title IX Coordinator or designee. An advisor may be required to meet with the Title IX Coordinator in advance to understand the parameters of their role, privacy restrictions under FERPA, and the provisions of this policy.

If a party does not have their own advisor in the grievance procedure, Coe College will provide that party, at no fee or charge to the party, with an advisor. The party may choose from a list of individuals supplied by the Title IX Coordinator. For purposes of the hearing described in this grievance procedure, cross-examination of a party must be conducted by an advisor. Parties may not cross-examine each other.

The complainant or respondent may change their advisor at any point during the process. Coe College reserves the right to dismiss an advisor who is disruptive to the proceedings or who does not abide by the restrictions in this policy. It is expected that the advisor will understand and abide by the expectations of privacy involved in the proceeding and will act with appropriate decorum at all stages. An advisor will be asked to sign an affirmation that they understand their role in the process.

Whether or not a party is relying on the assistance of an advisor, throughout the sexual misconduct grievance procedure, the parties—not their advisors—remain responsible for complying with deadlines and responding to inquiries from the Title IX Coordinator, the investigator, or hearing officer. Coe College will address materials and set deadlines by communicating with the parties.

### **Investigation of a Formal Complaint**

Title IX regulations require that after a formal complaint is filed, Coe College must investigate the allegations. Coe College will be prompt, fair, and impartial in its investigation of formal complaints. College officials involved will discharge their obligations under these procedures fairly and impartially. Identified conflicts of interest will be disclosed to Coe College, addressed, and if necessary, other appropriate individuals will be designated to fill the role of a potentially conflicted official. Sexual misconduct investigations are conducted by trained investigator(s) or other officials who receive training on issues related to sexual misconduct.

### **Investigators**

The Title IX Coordinator or their designee will choose one or more investigator(s) to review and investigate all details of formal complaint. The investigator(s) are trained staff, faculty, or attorneys that will be chosen based on availability and knowledge of the case. Both the complainant and the respondent may petition, in writing, to the Title IX Coordinator to have any investigator removed on the basis of bias or a conflict of interest. An investigator will only be removed should the Title IX Coordinator find credible evidence of bias or conflict. In the event that an investigator needs to be removed from the investigation for any reason, an alternative investigator will be selected by the Title IX Coordinator. If a sexual misconduct report is filed during the summer, members of previous investigation teams may be called to serve as investigators.

### **Statements, Evidence, and Witnesses**

At the outset of the sexual misconduct investigation, the complainant and respondent are both given the opportunity to submit a written incident statement regarding the incident. This includes identifying potential witnesses or those who may have relevant information about the investigation. These incident statements will be provided to the investigator and will be accessible to each party prior to the issuance of the investigation summary report. Coe College must share evidence gathered in the investigation with the parties.

While Coe College seeks to keep all written accounts of the incident confidential, the complainant and respondent may talk freely about the incident. Coe College encourages complainants and respondents to seek the counsel of those they trust.

Written material or information received by any party in the sexual misconduct investigation or hearing must be returned to Coe College upon final resolution of the sexual misconduct report. Failure to return material or information may result in separate disciplinary action.

In addition to providing written incident statements to the investigator(s), the investigation may involve in-person interviews with the complainant, the respondent, or other identified witnesses. If an in-person interview is requested, the investigator or Coe College representative will provide written notice of the date, time, location, participants, and purpose of the requested interview at least five calendar days before the interview. During the investigation, both the complainant and the respondent may identify relevant witnesses, including expert witnesses, to present to the investigators. Witnesses cannot be participating solely to speak about an individual's character. If it is clear a witness would not contribute relevant information about the case, the investigator(s) may choose not to interview the witness. The investigators will electronically record any interviews. Also, during the investigation, the parties are encouraged to provide any other relevant evidence, including but not limited to, correspondence between the parties and physical evidence.

Throughout the investigation, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on Coe College—not on a complainant or a respondent. Throughout the proceeding, until the issuance of a decision by the hearing officer, a respondent will be presumed not responsible for the allegations in the formal complaint. Each party will have an equal opportunity to present witnesses to the investigators, including expert witnesses. Each party will also have an equal opportunity to present evidence that they believe supports or disproves the allegations. Neither the investigators nor Coe College will restrict a party's ability to discuss the allegations under investigation, or gather and present relevant evidence.

The parties will have the same opportunity to have others present for the grievance procedure, including the opportunity to be accompanied to any investigation meeting by a single advisor.

Prior to issuance of the investigative report, discussed below, Coe College will provide all parties with notice that they have ten calendar days to inspect, review, and provide a written response to any evidence obtained as part of the investigation, including recordings or transcripts of the interviews conducted by the investigators and the incident statements discussed above. Coe College is legally obligated to provide the parties with access to all materials that were collected, whether they support or disprove the allegations in a formal complaint. However, Coe College will not and cannot provide adverse parties with the opportunity to confidential information that is subject to privacy laws, such as health information or records protected by privacy laws. A party may choose provide a written waiver of their right to maintain certain health or other records as confidential if the party believes that doing so makes sense under the circumstances.

All evidence collected will be made available to the hearing officer and the parties prior to the hearing, discussed below. Each party has ten calendar days from notice of the availability of the investigation materials to submit a written response to the investigation materials. The investigator(s) will consider a party's response to the investigation materials when completing the investigation summary report.

## **Investigation Summary Report**

At the conclusion of the investigation, the investigator(s) will prepare a written investigation summary report based on interviews with the complainant, respondent, witnesses, and other materials reviewed. The report will provide a fair summary of relevant evidence. An electronic copy of the report will be sent to each party and party's advisor at least five calendar days prior to the hearing discussed below.

## **Mitigation and Impact statements.**

The Complainant has a right to submit an impact statement to the hearing officer, and the Respondent has a right to submit a mitigation statement to the hearing officer. If a party wishes to submit an impact statement or mitigation statement to the hearing officer, the party must do so in writing, and submit the statement to the Title IX office within 24 hours after the conclusion of the hearing. Any impact statement or mitigation statement will only be delivered to the hearing officer for review and consideration if the respondent is found responsible for sexual misconduct.

## **Hearing**

A live hearing on the formal complaint will be scheduled no earlier than ten calendar days after the written investigation summary report is sent to the parties. Coe College will appoint a hearing officer to determine whether the respondent is responsible for the sexual misconduct alleged in the formal complaint. If the responding is found responsible for the conduct alleged in the formal complaint, the hearing officer, in consultation with the Title IX Coordinator, will determine the consequences and/or sanctions to be imposed. The hearing officer will be someone other than the Title IX Coordinator and investigator.

The hearing officer will report if they have a conflict of interest with any party or witness involved in the hearing, and Coe College will identify a suitable replacement hearing officer with no conflict of interest. If the complainant or respondent has reason to believe that any non-party individual involved in the grievance procedure has a perceived bias or conflict of interest, they can submit, in writing to the Title IX Coordinator, a request to change any individual involved in the grievance procedure at any point in this process. This request will be reviewed by any combination of the following individuals: The Dean of Students, the Director of Human Resources, and the Title IX Coordinator. If necessary, another individual will be designated.

Generally, the hearing officer will determine the procedure and method for the consideration of evidence at the hearing, subject to the following requirements:

- The hearing will be recorded by audio or audiovisual means, or a transcript will be generated and made available to the parties within two weeks of the hearing.
- No one may attend the hearing except for the hearing officer, a representative or counsel for Coe College, the Title IX Coordinator, the Title IX Coordinator's designee, the Director of Human Resources or their designee, the neutral investigator, the parties, an advisor for each party, and the witnesses, who will be sequestered from the portions of the hearing when they are not offering testimony. The neutral investigator may answer questions about the investigation questions and methods.
- Prior to the hearing, the hearing officer will receive and review the investigation summary report and all investigation materials from the investigator(s) for review. These materials include any statements, interviews, and material evidence submitted during the investigation process.
- The hearing will be conducted live. At any party's request, or at the discretion of the hearing officer, the hearing may be conducted with parties and advisors at different locations in separate

rooms with technology enabling the hearing officer and parties to simultaneously see and hear the party or the witness answering questions. Hearings may also be conducted virtually provided technology enables the hearing officer and parties to simultaneously see and hear the party or the witness answering questions.

- At the hearing, the hearing officer will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including questions that challenge a witness's credibility.
- All cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice, and never by a party personally.
- If a party does not have an advisor, Coe College will provide a list of advisors who are available to the party prior to the hearing. The party will be permitted to choose an advisor free of charge to that party, who may or may not be an attorney.
- Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
- Questions and evidence about a complainant's sexual predisposition or prior sexual behavior is not relevant, unless those questions or evidence are offered to prove that someone other than the respondent committed the alleged conduct, or if the questions and evidence concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
- Evidence of a respondent's prior conduct violations may be relevant and admissible to determine a sanction, if a respondent is found responsible.
- A hearing officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing, or refusal to answer cross-examination or other questions.
- Prior to the hearing, the hearing officer or the hearing officer's designee may request more information from any parties/students, including the complainant, the respondent, or identified witnesses, involved in the case. Both parties will be notified of any additional interviews.
- After reviewing all evidence, including the evidence presented at the live hearing, the hearing officer will make a determination as to whether the respondent is responsible for the conduct alleged in the formal complaint. The burden of proof is the preponderance of evidence. Under this standard, responsibility is determined on a "is it more likely than not" basis.
- Within seven calendar days of receipt of the recording or transcript of the hearing, the hearing officer will issue a written determination of responsibility. The written determination will include:
  - The identity of the alleged sexual misconduct;
  - A description of the procedural steps taken from the college's receipt of the formal complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits (if any), methods used to gather evidence, and hearings held;
  - Findings of fact supporting the hearing officer's determination;
  - Conclusions on the application of the Title IX Sexual Misconduct Policy to the facts;
  - A statement of, and rationale for, the result as to each allegation, including a determination of responsibility;
  - A statement of disciplinary sanctions that Coe College is imposing on the respondent;
  - Whether remedies designed to restore or preserve equal access to the Coe College's education programs or activities will be provided by Coe College to the

- complainant; and
  - The procedural for appeal and permissible bases for appeal of the hearing officer's determination.
- In order to limit information shared about students, the Dean of Students and/or Title IX Coordinator may direct the hearing officer to replace student names with non-identifiable names in the report and investigation materials.
- Sanctions and remedies will be based on the nature of the incident, the seriousness of the behavior, any prior conduct violations disclosed to the hearing officer, whether there is a pattern of sexual misconduct, safety concerns for the parties and the community, and other relevant facts.
- Sanctions may include one or more of the following:
  - oral or written reprimand
  - additional education or counseling
  - community service on or off-campus
  - no-contact orders
  - removal from college housing without a refund. Students who are dismissed during the term are subject to the Official Refund and Withdrawal Policy as outlined in the college catalog.
  - Disciplinary warning: written notice that continuation of misconduct in general or repetition of specified conduct has been found unacceptable within the specified period of time stated in the warning. Failure to comply may be cause for further disciplinary action.
  - Disciplinary probation: the most severe and serious warning a student may receive and still remain enrolled in the college. During the period of probation, disciplinary probation may be accompanied by other conditions as determined by the college. Violation of the terms of disciplinary probation or the infraction of any college regulation during the probation period may be grounds for suspension or expulsion.
  - Suspension: separation from the college for a specified period of time. Readmission must be applied for and may be contingent upon compliance with specific conditions.
  - Expulsion: permanent termination of enrollment from the college.
  - Termination of employment with the College.
  - Respondents who receive sanctions of suspension will be prohibited from returning to campus unless or until they are readmitted. Respondents who receive sanctions of expulsion or termination of employment will be prohibited from returning to campus indefinitely, unless express permission for a certain event is authorized by the Title IX office.
- A student-respondent found responsible for non-consensual sexual intercourse will typically, but not necessarily always, receive a sanction in the form of suspension or expulsion, including a ban from campus.
- A student-respondent found responsible for non-consensual sexual contact (where no intercourse occurred) will typically, but not necessarily always, receive a sanction ranging from a disciplinary warning, removal from housing, to expulsion.
- In determining an appropriate sanction, the hearing officer will consider a number of factors, including:
  - the range of sanctions discussed above;
  - the nature of the conduct at issue;
  - the impact of the conduct on the complainant;
  - the impact or implications of the conduct on the Coe College community;
  - prior misconduct by the respondent, including the respondent's relevant prior discipline history, both at Coe College or elsewhere, and any criminal convictions, if that information is available and known;
  - expressions of remorse or acceptance of responsibility by respondent
  - maintaining a safe and respectful learning environment;



- protecting the Coe College community
- any specific action needed to eliminate or stop the misconduct, prevent its recurrence, or remedy its effects;
- other mitigating, aggravating, or compelling circumstances to reach a just and appropriate resolution

## **Appeal**

Either the complainant or the respondent has the right to appeal the hearing officer's determination. In order to appeal, a written letter stating the purpose of the appeal must be submitted to the Title IX Coordinator's office within seven calendar days of receiving the determination letter. The appeal letter shall consist of a concise and complete written statement of the grounds for the appeal. The appeal letter should be submitted by email to the Title IX Coordinator ([titleix@coe.edu](mailto:titleix@coe.edu)).

Appeals will only be considered if made on one or more of the following grounds:

- Newly discovered evidence, not reasonably available at the time evidence was presented to the hearing officer, that could affect the outcome of the matter;
- Procedural errors that had a material impact on the outcome; or
- The Title IX Coordinator, investigator, or hearing officer had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter

The appeal letter must state which of the aforementioned grounds the appeal is based upon. Appeals of the hearing officer's decision shall be evaluated by an impartial decision-maker, referred to as the appeal officer. The appeal officer will be a Title IX Deputy Coordinator (not previously involved in the case) or Title IX Coordinator's designee.

The appeal officer will be different from the Title IX Coordinator, investigator, and hearing officer. The appeal officer must be free of any conflict of interest with any party or witness. Based on the appeal letter, the appeal officer must reject the appeal without further consideration if it was not timely filed or not made on appropriate grounds. If the appeal officer determines that an appealing party has timely filed and identified a permissible basis for the appeal, the Title IX Coordinator will notify both parties. If the appeal is accepted, the non-appealing party will be given an opportunity to respond in writing to the other party's appeal. Any response by the non-appealing party must be submitted within seven calendar days of the receipt of the notice of acceptance of the appeal. The non-appealing party will receive notice of the receipt of the appeal and if it is accepted for further review. Any written appeals or response statements will be sent to the opposing party within seven calendar days of acceptance.

In any appeal, the burden of proof lies with the party making the appeal, since the original determination and sanctions are presumed to have been decided reasonably and appropriately. The appeal officer shall consider the merits of an appeal only on the basis of the grounds for appeal, discussed above, and the supporting information provided in the written request for appeal, along with the record of the original hearing.

The appeal officer can affirm the original findings, alter the findings, and/or alter the sanction depending on the basis of the appeal. If the appeal officer determines that procedures were not followed and had a material impact on the outcome of the proceeding or the sanction, the appeal officer can ask that a new hearing occur before a different hearing officer. In the case of new and relevant information, the appeal officer can recommend that the case be returned to the original hearing officer to assess the weight and effect of the new information and render a determination after considering the new facts.

The appeal officer will communicate the result of the appeal in writing to the parties within ten calendar days from the date of submission of all appeal documents by all parties. Appeal decisions are final.

### **Finality of Outcome**

The outcome and any sanction rendered by the hearing officer will be considered final and binding upon the expiration of the appeal deadline or exhaustion of the appeal process. A complainant may not elect to pursue informal resolution after the outcome or sanction becomes final.

### **Rights of the Complainant**

- The right to be free from any kind of pressure that you should: (1) not report crimes committed against you to civil and criminal authorities, campus security, and disciplinary officials; or (2) report crimes as lesser offenses than the complainant perceives them to be;
- The right to be free from any kind of suggestion that campus sexual misconduct reporters not report or underreport crime because: (1) reporting parties are somehow responsible for the commission of crime against them; (2) reporting parties were negligent or assumed the risk for being assaulted; or (3) by reporting crimes they would incur unwanted personal publicity.
- The right to investigation and appropriate resolution of all credible reports of sexual misconduct made in good faith to Coe College administrators;
- The right not to be discouraged by college officials from reporting sexual misconduct to both on- campus and off-campus authorities;
- The right to be informed of the outcome and sanction of any disciplinary proceeding involving sexual misconduct;
- The right to be informed by Coe College officials of options to notify proper civil and criminal authorities, including Campus Security and the Cedar Rapids Police Department, and the option to be assisted by administrators in notifying such authorities, if the student so chooses. It also includes the right not to report, if this is the complainant's desire;
- The right to be notified of available counseling, mental health, or student services for reports of sexual misconduct, both on campus and in the community;
- The right to notification of, options for, and available assistance in, changing academic, working, transportation, and living situations after an alleged sexual misconduct incident (no formal report or investigation need to occur before this option is available). Such options may include:
  - Change of an on-campus student's housing to a different on-campus location; or Assistance from college support staff in completing the relocation;
  - Arranging to dissolve a housing contract and prorating a refund;
  - Exam (paper, assignment) rescheduling;
  - Taking an incomplete in a class;
  - Transferring class sections;
  - Temporary withdrawal;
  - Alternative course completion options
- The right not to have irrelevant prior sexual history admitted as evidence in a hearing;
- The right to make an impact statement and to have that statement considered by the hearing officer in determining its sanction;
- The right to request and have granted where the college deems it appropriate, a campus "no contact" order against another student who has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the reporting students or others;
- The right to be made aware of, and assisted in, exercising any options, as provided by the state and federal laws or regulations, with regard of mandatory testing of sexual assault suspects for

communicable diseases, and with regard to notification of the complainant of the results of such testing.

- The right to appeal the finding and sanction of the hearing officer;
- The right to review all evidence gathered in the investigation, subject to privacy considerations explained elsewhere in this policy;
- The right to preservation of confidentiality to the extent possible and allowed by law;
- The right to disciplinary proceedings closed to the public;
- The right to petition that any investigator or hearing officer or appeals officer be removed on the basis of demonstrated bias or conflict of interest;
- The right to bring an advisor to all phases of the investigation and hearing.
- The right to give testimony or provide statements in an investigation by means other than being in the same room with the respondent.
- The right to identify relevant witnesses during the campus investigation process;
- The right to be fully informed of campus conduct rules and procedures;
- The right to challenge documentary evidence or testimony presented by witnesses or the respondent, including the right to cross-examine witnesses with an advisor of your choice at a live hearing;
- The right to review all testimony given and evidence presented during the investigation and hearing;
- The right to have reports heard by hearing officers or appeals officer members who have received appropriate sexual misconduct review training

### **Rights of the Respondent**

- The right to investigation and appropriate resolution of all reports of sexual misconduct made to college administrators against the respondent;
- The right to be informed of and have access to campus resources for medical, counseling, and advisory services;
- The right to be fully informed of the nature, rules, and procedures of the conduct process;
- The right to timely written notice of all alleged violations within the report, including the nature of the violation and possible sanctions;
- The right to exclude irrelevant prior sexual history as evidence in the grievance procedure;
- The right to make a statement during the investigation and hearing and to have that statement considered by the hearing officer;
- The right to make a mitigation statement in the event the respondent is found responsible to have that statement considered by the hearing officer in determining a sanction;
- The right to appeal the finding and sanction of the hearing officer;
- The right to review all evidence available in the investigation, subject to privacy considerations explained elsewhere in this policy;
- The right to disciplinary proceeding closed to the public;
- The right to petition that any investigator or hearing officer or appeals officer member be removed on the basis of demonstrated bias or conflict of interest;
- The right to have the college reasonably encourage the presence of student, faculty, and staff witnesses;
- The right to review all testimony given and evidence presented during the investigation and hearing, including the right to cross-examine witnesses with an advisor of your choice at a live hearing;
- The right to challenge documentary evidence or testimony presented by witnesses or the complainant;

- The right to have formal complaints heard by a hearing officer who has received appropriate sexual misconduct review training;
- The right to have one advisor to accompany and assist in the campus disciplinary process;
- The right to a campus conduct outcome based solely on evidence presented during the grievance procedure;
- The right to written notice of the outcome and sanction;
- The right to be informed in advance, when possible, of any public release of information regarding the grievance procedure;
- The right to be presumed not responsible for sexual misconduct.

### **Informal Resolution of a Formal Complaint**

Informal means of resolution, such as mediation, may be used in lieu of the grievance procedure, or, in some circumstances, utilized even after the grievance procedure is underway. Informal resolution is only available after a formal complaint has been filed, prior to a final determination of responsibility. The following standards apply to any informal resolution method that is utilized:

- The decision about whether to pursue informal resolution as a final and binding resolution of a formal complaint will be made by any of the following individuals, or a combination of them: The Dean of Students, the Title IX Coordinator, and the Director of Human Resources.
- The parties' written, voluntary consent to the informal resolution process will be obtained.
- Informal resolution is available to parties throughout the grievance procedure, including from the time a formal complaint is filed and through the appeal process.
- If an individual decides to file a formal complaint that individual has the right to decide whether to continue with the grievance procedure.
- The parties will not be required to "work out" the problem directly with each other.
- Either party may terminate the informal process at any time and resume the grievance procedure.
- Informal resolution is not available to resolve a formal complaint alleging that an employee engaged in sexual misconduct toward a student.
- Timeframe for informal resolution will be no longer than twenty calendar days.
- Informal resolution can include, but is not limited to, options such as the following:
  - Jointly meeting informally with the complainant and respondent in order to find a mutually agreeable solution;
  - A representative from Coe College meeting with the respondent individually in an effort to act as an intercessor on behalf of the complainant;
  - Voluntarily agreed upon separation of the complainant and respondent; or referral of the parties or party to counseling programs;
  - Conducting educational and/or training programs; or
  - An agreement for corrective action.

The Title IX Coordinator or the Title IX Coordinator's designee will have discretion to determine whether or not informal resolution, or any particular form of informal resolution, is appropriate to the circumstances. For example, while mediation may be an effective form of informal resolution for some matters, it may not be effective or appropriate in all cases.

If an informal resolution is sought, it may satisfy a complainant's desire to proceed with the grievance procedure, and may provide a faster outcome. When a formal complaint has been informally resolved, parties will be asked to sign a document acknowledging the mutually agreed upon resolution.

A final and binding informal resolution, which precludes the parties from resuming the grievance procedure, must be in writing and signed by all parties, including a representative of the college. To be

considered a final and binding informal resolution, the written informal resolution agreement must state that the parties and the college understand that the resolution is intended to fully and finally resolve the matter subject to the reported sexual misconduct and/or formal complaint of sexual misconduct.

Informally resolved complaints will not be treated as disciplinary records and would not be part of a student's educational records, or responsive to a request for records under the Family Educational Rights and Privacy Act ("FERPA"). However, conduct that is alleged in an informally-resolved complaint may be used as evidence to establish a pattern or practice of sexual misconduct if a subsequent formal complaint is filed against the same respondent.

### **Procedure for Other Reports of Prohibited Misconduct**

Some reports may involve conduct that Coe College cannot process through the grievance procedure for formal complaint. Coe College may choose to address this conduct through other disciplinary processes. Examples conduct that cannot be addressed through the Title IX Sexual Misconduct Policy, but may be addressed through Coe College's Student Handbook, Faculty Handbook, or Staff Handbook. Conduct subject to the policies and disciplinary procedures other than the Title IX Sexual Misconduct Policy, includes:

- Inappropriate conduct, including harassment or discrimination on the basis of a characteristic other than sex, such as race, skin color, religion, age, disability, or veteran's status
- Sex-based conduct that is inappropriate but does not meet the definition of harassment under the Title IX Sexual Misconduct Policy;
- Misconduct that occurred outside the United States or its territories;
- Misconduct by a member of the Coe College community directed toward a person or group that was not participating or attempting participate in an educational program or activity
- Any other misconduct prohibited by Coe College's other policies.

### **Investigation and Resolution of Formal Complaints when the Accused Person is a Faculty or Staff Member**

If the accused person is a faculty member or staff member and the alleged conduct does not involve potential sexual misconduct with a student, the parties may pursue informal resolution, and the informal resolution policy discussed above will apply. The Human Resources Office will be consulted for informal resolution involving a complaint against a faculty or staff member.

If the accused person is a faculty member or staff member, and formal disciplinary action is pursued through a formal complaint, Title IX regulations require that the faculty or staff member be subject to the grievance procedure discussed above. If a staff or faculty member is found responsible for sexual misconduct by the hearing officer, the hearing officer's sanction may, in certain cases, recommend adverse employment action for the responsible faculty or staff member. Adverse employment action includes, but is not limited to: termination of employment, suspension, leave, a change in pay or benefits, a change in job title, position or rank, or a substantial change to job duties and responsibilities. If the hearing officer recommends adverse employment action for a faculty or staff member, the faculty or staff member will be temporarily placed on paid leave while the Title IX Coordinator, Director of Human Resources, Dean of Students, or their designee consider the finding of responsibility and recommended sanctions.

Together, these officials will use the applicable faculty or staff disciplinary policies and processes to review the investigation summary and finding of responsibility from the hearing officer to determine the

nature of the imposition of any adverse employment action, and may rely on materials generated in the grievance procedure. However, immediately after a faculty or staff member is found responsible for sexual misconduct and exhausted the appeal process discussed above, and while review of any recommended adverse action is undertaken through the applicable faculty or staff disciplinary processes, Coe College will ensure that the complainant or individual who experienced the alleged sexual misconduct is fully restored to their education program or activity and will not be subjected to further potential sexual misconduct by the faculty or staff member found responsible for sexual misconduct.

### **Retaliation**

No member of the Coe College community may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege under Title IX or Coe College's Title IX Sexual Misconduct Policy. This means that no one can take negative action toward a member of Coe College who has filed a report, formal complaint, or otherwise participated in any investigation or hearing under the Title IX Sexual Misconduct Policy. A person who engages in intimidation, threats, coercion, or discrimination because someone has exercised their rights under Title IX or this policy can be subject to the grievance procedure in this policy.

### **Prevention and Education Programs**

Coe College is committed to preventing sexual misconduct through education and awareness programs. Incoming students and new faculty and staff are expected to take prevention and awareness training as part of their orientation, and all students and employees may be subject to ongoing or additional training or related programs. All members of the Coe College community are expected to follow this policy.