

TITLE IX POLICY

The US Department of Education defines sexual harassment to include any the following three types of misconduct on the basis of sex, all of which jeopardize the equal access to education that Title IX is designed to protect:

- Any instance of *quid pro quo* harassment by a college employee;
- Any unwelcome conduct that a reasonable person would find so severe, pervasive and objectively offensive that it denies a person equal educational access; or,
- Any instance of sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

It is the policy of Copenh-Lincoln Community College to maintain a learning and working environment that is free from sexual harassment which complies with 2020 DOE Regulations (34 C.F.R. 106). No employee or student of the college district shall be subjected to sexual harassment. It shall be a violation of this policy for any member of the Copenh-Lincoln Community College staff to harass another staff member or student through conduct or communications of a sexual nature as defined in this policy. It shall also be a violation of this policy for students to harass other students or staff through conduct or communications of a sexual nature as defined in this policy.

Copenh-Lincoln Community College will respond when sexual harassment occurs in the college's education programs or activities against a person in the United States. Education programs and activities include locations, events or circumstances over which the college exercises substantial control over both the complainant and the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the college. Title IX applies to all of the college's education programs and activities, whether such programs or activities occur on-campus or off-campus.

Copenh-Lincoln Community College's Title IX Coordinator is designated to coordinate the college's efforts to comply with Title IX responsibilities. Notification of the name, title, office address, e-mail address, and telephone number of the Title IX Coordinator will be provided to students, employees, applicants for admission and employment, and will be made available to the public. This information will also be made available on the college's website. Any person may report sex discrimination, including sexual harassment (whether or not the person is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by e-mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time, including during non-business hours, by using the telephone number or e-mail address, or by mail to the office address, listed for the Title IX Coordinator.

Any student of the College who feels he/she may be the victim of sexual harassment or sexual violence may take any of the following actions:

- Enrollment Services: complainant may seek confidential counseling or referral to psychological services without an investigation.
- VP/Dean of Students: complainant may seek disciplinary action through an investigation and the college judicial system.

- Title IX Coordinator: complainant may file a Title IX complaint with Title IX Coordinator for acts of sexual harassment or sexual violence.
- Law Enforcement: complainant may seek a criminal investigation through Campus Police or local law enforcement.

Any student who wishes to file a complaint of sexual harassment against an employee of the college shall follow the following policy:

- All student complaints against a Co-Lin employee should be made to the Associate Vice President Instructional Services, Vice President of the Natchez Campus, or Vice President of the Simpson Center.
- A substantiated charge against the employee of the college district shall subject the staff member to disciplinary action, up to and including discharge.

Any *employee* of the college who feels he/she may be the victim of sexual harassment or sexual violence may take any of the following actions:

- Enrollment Services: complainant may seek confidential counseling or referral to psychological services without an investigation.
- Title IX Coordinator: complainant may file a Title IX complaint with Title IX Coordinator for acts of sexual harassment or sexual violence.
- Law Enforcement: complainant may seek a criminal investigation through Campus Police or local law enforcement.

Any *employee* of the college who wishes to file a complaint of sexual harassment against another *employee or student* should follow the steps below:

- If such conduct involves a person other than the employee's immediate supervisor, the complaining employee is encouraged to discuss his/her complaint with his/her supervisor.
- If such conduct involves the complaining employee's immediate supervisor, the employee should follow one of two routes: a) discuss complaint with the person to whom the immediate supervisor reports or to anyone of higher authority in the administrative chain of command;
- If the complaint is against a *student*, refer the complaint to the Title IX Coordinator.

Copiah-Lincoln Community College will respond promptly to Title IX sexual harassment in a manner that is not deliberately indifferent. The response will include:

- Offering supportive measures to the person alleged to be the victim (referred to as the "complainant").
- The Title IX Coordinator contacting the complainant promptly and confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.
- The college will follow a grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures, against a respondent.
- The college will not restrict rights protected under the US Constitution, including the First Amendment, Fifth Amendment and Fourteenth Amendment, when complying with Title IX.

- The college will investigate sexual harassment allegations in any formal complaint, which can be filed by the complainant, or signed by the Title IX Coordinator.
- The college will respect the complainant's wishes with regard to whether the college investigates the incident unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.
- If the allegations in the formal complaint do not meet the definition of sexual harassment, or did not occur in the college's education programs or activities, the college will dismiss such allegations *for purposes of Title IX* but may still address the allegations in a manner the college deems appropriate under college policies and procedures.

Once a formal complaint is filed, respondent will receive written notice, allowing sufficient time to prepare before the initial interview. The notice will include:

- Identities of the parties involved;
- Conduct allegedly constituting sexual harassment; and,
- Date of the alleged incident.

The college will continue to provide updates through written notice and will ensure the respondent:

- Is presumed not responsible;
- Is offered an advisor; and,
- Has the opportunity to inspect and review evidence.

When responding to sexual harassment, the college provides clear definitions of complainant, respondent, formal complaint, and supportive measures so that recipients, students, and employees clearly understand how the college must respond to sexual harassment incidents in a way that supports the alleged victim and treats both parties fairly.

Definitions

Complainant: An individual *who is alleged to be the victim* of conduct that could constitute sexual harassment.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal Complaint: A document filed by a complainant or a third party or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting the school investigate the allegation of sexual harassment and states:

- At the time of the filing a formal complaint, a complainant must be participating in or attempting to participate in the education programs or activities of the college;
- A formal complaint may be filed with the Title IX Coordinator in person, by mail, by telephone or by electronic mail, by using the contact information listed for the Title IX Coordinator.
- The phrase "document filed by a complainant" means a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates the complainant is the person filing the formal complaint.

- Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or a party during a grievance process, and must comply with requirements for Title IX personnel to be free from conflicts and bias.

Supportive Measures: Individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.

Non-Punitive: Supportive measures may not unreasonably burden the other party.

Sexual Assault: “Any sexual act directed against another person, forcibly and/or against that person’s will; or not forcibly or against the person’s will where the victim is incapable of giving consent.” (Clery Act)

Domestic Violence: “Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.” (VAWA)

Dating Violence: “Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where the existence of such relationship shall be determined based on a consideration of the following factors: the length of relationship, the type of relationship, the frequency of interaction.” (VAWA)

Stalking: “Engaging in a course of conduct directed at a specific person that would cause a reasonable person to— (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.” (VAWA)

Title IX Coordinator: The employee designated by the college to coordinate its efforts to comply with Title IX responsibilities.

Officials With Authority To Institute Corrective Measures (OWA’s): Any official other than the Title IX Coordinator, who has authority under Copiah-Lincoln Community College’s policies and procedures to institute corrective measures (such as discipline, no-contact orders, or other interim measures) in response to harassment.

Investigators: Responsible for interviewing witnesses, collecting evidence, and preparing investigation reports for hearings.

Advocates: An advisor made available by the college to the complainant and respondent at the live hearing who conducts cross-examinations of the opposing party.

Decision-Makers: The person(s) responsible for deciding the ultimate question of responsibility or non-responsibility at a live, recorded hearing, and for determining disciplinary sanctions.

Appellate Decision-Makers: Person(s) responsible for reviewing appeals by complainants or respondents for procedural errors or new evidence that could not have previously been presented. Not the Title IX Coordinator, investigator, or original decision-maker.

Grievance Process:

Copiah-Lincoln Community College will implement a Title IX grievance process. The Title IX grievance process is initiated when a formal complaint is filed and includes these procedures which are outlined in the following sections:

- Written notifications
- Investigations
- Live hearings
- Appeals

The process treats complainants equitably by providing remedies any time a respondent is found responsible, and treats respondents equitably by not imposing disciplinary sanctions without following the grievance process required by law. Remedies provided to a complainant when a respondent is found responsible, are designed to maintain the complainant's equal access to education and may include the same individualized services as supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. The grievance procedure will provide objective evaluation of all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person's status as a complainant, respondent, or witness. The college's grievance process will not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. Any provisions, rules or practices the college uses as part of its grievance process for handling complaints of sexual harassment, applies equally to both parties.

All Title IX personnel (Title IX Coordinator, investigator, decision-makers, employees who facilitate any informal resolution process) will be free from conflicts of interest or bias for or against complainants or respondents. All college employees involved in the Title IX process will be provided adequate training, which will be made available for public inspection on the college's website. Personnel will presume the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Investigations:

The college will investigate the allegations in any formal complaint and send written notice to both parties (complainants and respondents) of the allegations upon receipt of a formal complaint. When investigating and during the grievance process:

- The burden of gathering evidence and burden of proof remains on the college and not on the parties.
- The college will use the preponderance of evidence as its evidentiary standard.
- The college will provide equal opportunity for the parties to present fact and expert witnesses and other inculpatory and exculpatory evidence.
- The college will not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no "gag orders").

- Parties will have the same opportunity to select an advisor of the party's choice who may be, but need not be, an attorney.
- The college will send written notice of investigative interviews, meetings or hearings.
- The college will send the parties, and their advisors, evidence directly related to the allegations, in electronic format or hard copy, with at least ten days for the parties to respond.
- The college will dismiss allegations of conduct that do not meet the Title IX definition of sexual harassment or did not occur in the college's education programs or activities against a person in the US. Such dismissal is only for Title IX purposes and does not preclude the college from addressing the conduct in any manner the college deems appropriate.
- The college may, with discretion, dismiss a formal complaint or allegations therein if the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein, if the respondent is no longer enrolled or employed by the college, or if specific circumstances prevent the school from gathering sufficient evidence to reach a determination.
- The college will give the parties written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal.
- The college may, with discretion, consolidate formal complaints where the allegations arise out of the same facts.
- The college will protect the privacy of a party's medical, psychological, and similar treatment records by not accessing or using such records unless the college obtains the party's voluntary, written consent to do so.

Live Hearings:

The college will provide live Title IX hearings with cross-examination. At the live hearing, the decision-maker(s) will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. At the request of either party, the recipient must provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.

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 questions, the decision-maker must first determine whether the question is relevant and explain to the party's advisor asking the cross-examination questions any decision to exclude a question as not relevant.

If a party does not have an advisor present at the live hearing, the college will provide, without fee or charge to that party, an advisor of the college's choice who may be, but is not required to be an attorney to conduct cross-examination on behalf of that party.

If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) 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.

Live hearings may be conducted with all parties physically present in the same geographic location or, at the college's discretion, all parties, witnesses and other participants may appear at the live hearing virtually. The college will create an audio or audiovisual recording, or transcript, of any live hearing.

The college will provide rape shield protections for complainants deeming irrelevant questions or evidence about a complainant's prior sexual behavior unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent.

The decision-maker will issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanctions imposed on the respondent, and whether remedies will be provided to the complainant. The written determination will be sent simultaneously to the parties along with information on how to file an appeal.

Appeals:

The college will offer both parties an appeal from a determination regarding responsibility, and from the college's dismissal of a formal complaint or any allegations therein, on the following bases: procedural irregularity that affected the outcome of the matter, newly discovered evidence that could affect the outcome of the matter and/or Title IX personnel had a conflict of interest or bias, that affected the outcome of the matter. The college may offer an appeal equally to both parties on additional bases.

Informal Resolution:

The college has the discretion to choose to offer and facilitate informal resolution options, such as mediation or restorative justice, so long as both parties give voluntary, informed, written consent to attempt informal resolution. The facilitator of the informal resolution will be well trained. The college will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment or enjoyment of any other right, waiver of the right to a formal investigation or adjudication of formal complaints of sexual harassment. Similarly, the college will not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed.

At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

The college will not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Retaliation Prohibited:

The college expressly prohibits retaliation. Charging an individual with code of conduct violations that do not involve sexual harassment, but arise out of the same facts or circumstances as 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 college will keep confidential the identity of complainants, respondents, and witnesses, except what may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding. Complaints alleging retaliation may be filed according to the college's prompt and equitable grievance procedures. The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.

Emergency Removal:

Copiah-Lincoln Community College can remove a student or employee from an education program or activity if the college:

- Conducts an individualized safety and risk analysis;
- Determines there is an immediate threat; and,
- Provided respondent with notice and an opportunity to challenge the decision immediately following removal.