

## Carroll College Title IX Grievance Procedures

### I. Purpose

These Grievance Procedures accompany the Carroll College Title IX Policy [insert link] and outline the procedures that will be used to report and resolve complaints alleging violations of the Title IX Policy. The purpose of these Title IX Grievance Procedures, as set forth below, is to provide prompt and equitable resolution of reports and complaints of Sexual Harassment prohibited by the Title IX Policy.

### II. Definitions

The following definitions apply in the Grievance Procedures:

**Advisor** means a person chosen by a Party or appointed by Carroll College who may be present during meetings, interviews and hearings during the Grievance Process and, where applicable, the Informal Resolution process.

**Complainant** means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

**Decision Maker** means the person appointed by the Title IX Coordinator to conduct the hearing and issues a written determination as to whether the Respondent has violated the Title IX Policy.

**Formal Complaint** means a document or electronic submission signed by the Complainant or signed by a Title IX Coordinator alleging a policy violation by a Respondent and requesting that Carroll College investigate the allegation(s).

**Grievance Process** means the process used by Carroll College to resolve Formal Complaints of Sexual Harassment. The Process includes the investigation, hearing and appeal processes outlined in these Procedures.

**Official with Authority** means officials of Carroll College who have authority to institute corrective measures to address Sexual Harassment. These officials are the President, Title IX Coordinators, Human Resource Director, Director of Safety.

**Report** means information provided to the Title IX Officer or an Official with Authority that alleges conduct that may be a potential violation of the Title IX Policy.

**Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

**Party or Parties** means the Complainant(s) and Respondent(s) named in a Formal Complaint.

**Title IX Coordinator** means the Dean of Students and Retention and the Director of Human Resources or any other employee who is appropriately trained and appointed by the President to act as a Title IX Coordinator.

### **III. Reporting Sexual Harassment**

Reports or complaints of violations of the Carroll College Title IX Policy may be made using any of the following options:

- A. Report or file a complaint with, or give verbal notice to, a Title IX Coordinator.
- B. Use the reporting form posted on Carroll's website .  
<https://www.carroll.edu/sexual-misconduct/report-sexual-misconduct/>.

Anyone may report incidents of Sexual Harassment whether or not the person reporting is a Complainant. Anonymous reports are accepted but anonymous reports will not initiate the Grievance Process unless a Formal Complaint is filed by a Complainant or the Title IX Coordinator.

There are no time limits on reporting allegations of Sexual Harassment or filing a Formal Complaint. However, if the Respondent is no longer subject to Carroll College's jurisdiction and/or significant time has passed, the ability to investigate, adjudicate and provide remedies may be limited or impossible.

Individuals need not wait to report until the conduct becomes sufficiently serious to constitute a policy violation. The Title IX Coordinator can provide advice and, in some cases, may take non-disciplinary measures to address concerns and prevent on-going behavior from becoming conduct that would be a policy violation in the interest of maintaining a safe and equitable campus environment.

### **IV. Mandatory Employee Reporting**

Carroll College employees, including all full and part-time faculty and staff, administrators, all Residence Life staff (including R.A.s), Peer Ministers and FOCUS volunteers, must report, as soon as reasonably possible, actual or suspected Sexual Harassment or Retaliation to a Title IX Coordinator, unless the employee is exempt as described below.

Some employees must maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor, individual with a disability, or when required to disclose by law or court order. Such employees include Licensed Counselors, Wellness Center Nurses, Victim Advocates, and on-campus priests within the sacrament of Confession. These employees are exempt from Mandatory Employee Reporting.

Mandated Reporters will provide the Title IX Coordinator all known details of a report made to them in the course of their employment. Mandated Reporters are required to report conduct that would constitute Sexual Harassment under this policy that they observe or have knowledge of, even if not reported to them directly.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as "Take Back the Night" marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator by Mandated Reporters unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from Carroll College.

Failure of a Mandated Reporter, as described above in this section, to report an incident of Sexual Harassment or Retaliation they have knowledge of is a violation of this policy and may be subject to disciplinary action for failure to comply.

#### **V. Supportive Measures**

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available, without fee or charge to the Parties before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve access to Carroll College's education program or activity, without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or Carroll College's educational environment, or deter Sexual Harassment and/or retaliation. Supportive Measures may include referrals for counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, or other similar measures.

A Title IX Coordinator will promptly offer Supportive Measures to a Complainant upon receiving a report or a Formal Complaint. At the time that Supportive Measures are offered, Carroll College will also inform the Complainant, in writing, that they may file a Formal Complaint with Carroll College, either at that time or in the future, if they have not done so already. The Title IX Coordinator will offer Supportive Measures to a Respondent if a Formal Complaint is filed.

The Title IX Coordinator will maintain confidentiality about supportive measures provided to the Parties to the extent that maintaining such confidentiality would not impair the ability to provide the supportive measures.

#### **VI. Emergency Removal/Administrative Leave**

Carroll College may remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. If the Respondent is an employee, interim action may be taken under any applicable policies.

If an emergency removal is imposed, the student or employee will be given notice of the action and the emergency removal will be implemented. No later than five (5) business days from the notice of removal, the student or employee may request a meeting with a Title IX Coordinator to show cause why the removal should be rescinded or modified. The Title IX Coordinator will make the final decision after the show cause meeting, if one is held. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

A Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, up to and including expulsion or termination from employment.

#### **VII. Formal Complaints**

A Complainant may choose to file a Formal Complaint or the Title IX Coordinator may file a Formal Complaint. The College will not initiate Informal Resolution or an investigation of allegations until a Formal Complaint is filed.

A Complainant may file a Formal Complaint with a Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the Title IX Policy, or as described in Section III.

Complainants may contact a Title IX Coordinator without filing a Report or Complaint to discuss Supportive Measures and the options available to them to resolve allegations of Sexual Harassment as defined by the Title IX Policy.

### **VIII. Adjudicatory Jurisdiction**

The Title IX Policy and these Title IX Procedures apply to allegations of Sexual Harassment that are alleged to have occurred in the educational programs and activities of Carroll College, on the campus or on property owned or controlled by Carroll College, at Carroll College-sponsored events, or in buildings owned or controlled by Carroll College's recognized student organizations.

This policy also applies to off-campus conduct that effectively deprives someone of access to Carroll College's educational programs and activities or its workplaces. Carroll College may also extend jurisdiction to off-campus and/or to online conduct when a Title IX Coordinator determines that the conduct affects a substantial Carroll College interest regardless of where the conduct occurred.

Carroll College will apply the policy and procedures in place at the time of the Report or Formal Complaint. Jurisdiction is determined by the Title IX Coordinator.

If allegations of Sexual Harassment do not fall within the jurisdiction of this policy, nothing herein prohibits Carroll College from addressing the allegations under another college policy or otherwise taking administrative actions to address concerns.

### **IX. When a Complainant Does Not Wish to Proceed**

If a Complainant does not want their name to be shared, does not want to file a Formal Complaint, or does not want an investigation to take place, they may make such a request to a Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

A Title IX Coordinator has the ultimate discretion over whether Carroll College proceeds when the Complainant does not wish to do so, and a Title IX Coordinator may sign a Formal Complaint to initiate an investigation and the Grievance Process. Some circumstances may require Carroll College to proceed to protect the educational community and address known Sexual Harassment.

The Title IX Coordinator may consider a variety of factors in determining whether to initiate a Formal Complaint, including a pattern of alleged Sexual Harassment by a particular Respondent, any allegations of Sexual Harassment by an employee, any continuing risk to the health and safety of the campus community and any other similar factors.

When the Title IX Coordinator signs the Formal Complaint, the Title IX Coordinator is not a Complainant or a Party and must follow this the Title IX Procedures to resolve the Formal Complaint.

A Complainant retains all rights of a Complainant under the Grievance Procedures irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Complainant's Advisor or an Advisor appointed by Carroll College may ensure and protect the rights of the Complainant in the process, though this does not extend to the provision of evidence or testimony.

Carroll College's ability to remedy and respond to incidents may be limited if the Complainant does not want Carroll College to proceed with an investigation and/or the Grievance Process. The goal is to provide the Complainant with as much control over the Title IX Grievance Process as possible, while balancing Carroll College's obligation to protect its community.

If a Complainant requests confidentiality/no formal action and the circumstances allow Carroll College to honor that request, Carroll College will offer Supportive Measures and remedies to the Complainant and the community, but will not otherwise provide notice to the Respondent or initiate the investigation and the Grievance Process. A Complainant may decide to file a Formal Complaint at a later date.

#### **X. Withdrawal or Resignation after Formal Complaint is Filed**

Students. If a student Respondent is a second semester senior when a Formal Complaint is filed, the College will withhold that student's degree pending resolution of the Complaint under the Grievance Process.

If the student Respondent withdraws from the College before the final resolution of a Formal Complaint, the Title IX Coordinator may:

- A. Elect to complete the Title IX Grievance Process. A hearing may occur regardless of a student's enrollment status or participation.
- B. Suspend the Title IX Grievance Process. If the Grievance Process is suspended, the Respondent's transcript will include a notation which states: "Student Withdrew with Disciplinary Charges Pending." The student who withdraws or leaves while the process is pending may not re-enroll, return to the Carroll College campus or participate in Carroll College programs and activities until the pending Formal Complaint is resolved.
- C. Dismiss the Formal Complaint.

Employees. If an employee Respondent resigns before the final resolution of a Formal Complaint, the Title IX grievance procedures will end because Carroll College is without jurisdiction to impose discipline on the employee. The employee will not be eligible for rehire at Carroll College.

Carroll College will continue to address and remedy any systemic issues that may have contributed to the alleged violation(s), and any ongoing effects of the alleged violations.

#### **XI. Federal Timely Warning Obligations**

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, Carroll College must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

#### **XII. Amnesty for Complainants and Witnesses**

Sometimes, Complainants or witnesses are hesitant to report to Carroll College officials or participate in the Grievance Process because they fear that they themselves may be in violation of certain policies. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of Carroll College community that Complainants choose to report Sexual Harassment to Carroll College officials, that witnesses come forward to share what they know, and that all Parties be forthcoming during the process. Therefore, Carroll College will provide amnesty as outlined below.

**Students:** Carroll College maintains a policy of offering student Parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse or illicit drug distribution.

**Employees:** Sometimes, employees are hesitant to report Sexual Harassment or retaliation they have experienced for fear that they may get in trouble themselves. Carroll College may, at its discretion, offer employee Complainants and witnesses amnesty for minor policy violations related to the incident. Amnesty may be granted to employee Respondents and witnesses on a case-by-case basis.

### **XIII. False Statements**

Any person who knowingly makes a materially false statement in the course of the Grievance Process may be subject to disciplinary action under the Student Conduct Code or employee disciplinary processes as applicable.

### **XIV. Resolution of Formal Complaints**

Upon receipt of a Formal Complaint of Sexual Harassment as defined under the Title IX policy, Carroll College will follow these Title IX Grievance Procedures to resolve the complaint.

The Carroll College Equal Opportunity Grievance Procedure and Student Code of Conduct may also apply to Sexual Harassment when jurisdiction does not fall within Title IX Policy and these Grievance Procedures.

The Title IX Grievance Procedures may be used to address collateral misconduct (e.g., vandalism, physical abuse of another) arising from or occurring in conjunction with the reported Sexual Harassment. All other allegations of misconduct unrelated to incidents covered by the Title IX Policy will be addressed through procedures described in the student, faculty, and staff handbooks or other Carroll College policies.

### **XV. Resolution Timeline**

It is anticipated that the investigation, hearing and final determination will be completed within ninety (90) business days. This time frame may be extended by a Title IX Coordinator for good cause. If extended, a Title IX Coordinator will provide notice and rationale for any extensions or delays to the Parties, as well as an estimate of how much additional time will be needed to complete the process.

## **XVI. Initial Outreach**

Upon receipt of a report or complaint of an alleged violation of the Policy, a Title IX Coordinator will promptly offer Complainant Supportive Measures, with or without the filing of a Formal Complaint, and may invite the Complainant to meet with a Title IX Coordinator to assess jurisdiction and discuss potential resolution options, including the process for filing a Formal Complaint.

## **XVII. Filing of a Formal Complaint**

If the Complainant chooses to file a Formal Complaint, the Title IX Coordinator will initiate these Title IX Grievance Procedures which will include an investigation and a hearing, unless resolved by Informal Resolution. The determination of whether a violation of the policy has occurred will be determined through the Title IX Grievance Procedures.

The Title IX Coordinator may consolidate Formal Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations arise out of the same facts or circumstances.

## **XVIII. Dismissal (Mandatory and Discretionary)**

A. Mandatory Dismissal. Carroll College must dismiss a Formal Complaint or any allegations therein if, at any time prior to resolution of the complaint, it is determined that:

1. The conduct alleged in the Formal Complaint would not constitute Sexual Harassment as defined in the Title IX Policy, even if proved; or
2. The conduct did not occur in an educational program or activity of Carroll College (including buildings or property controlled by recognized student organizations); or
3. The conduct did not occur against a person in the United States; or
4. At the time of filing a Formal Complaint, a Complainant is not participating or attempting to participate in a Carroll College program or activity.

Such dismissal does not preclude Carroll College from taking action to address the conduct under another Carroll College policy or handbook.

B. Discretionary Dismissal. Carroll College may dismiss a Formal Complaint or any allegations therein if, at any time prior to the resolution of the complaint:

1. A Complainant notifies a Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; or
2. The Respondent is no longer enrolled in or employed by Carroll College; or
3. Specific circumstances prevent Carroll College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

C. Upon any dismissal, Carroll College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the Parties.

D. This dismissal decision is appealable by any Party under the Appeal Procedures in Section LIV.

### **XIX. Notice of Investigation and Allegations**

Upon receipt of a Formal Complaint, a Title IX Coordinator will provide a written Notice of the Investigation and Allegations (the "NOIA") to Parties. The NOIA will include the following information:

- A. Links to the Title IX Policy and Grievance Procedures,
- B. The Parties' right to have an advisor, who may be an attorney,
- C. The allegations of Sexual Harassment, including the details known at the time.
- D. A statement that the Respondent is presumed not responsible for the alleged violation of the policy and that a determination of whether the policy has been violated will be made at the conclusion of the Grievance Process,
- E. Explanation of the Parties' right to inspect and review evidence, and
- F. Notice that the Student Handbook and the Title IX Policy and Procedures prohibit knowingly making false statements or knowingly submitting false information during the Grievance Process.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered in person or emailed to the Parties' Carroll College-issued email or designated accounts. Once emailed, and/or received in-person, notice will be presumptively delivered.

### **XX. Designation or Appointment of Advisors**

The Parties may each have one Advisor of their choice present with them for all meetings, interviews, and hearings during the Grievance Process, if they so choose. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available. The Parties will notify a Title IX Coordinator of any Advisor they have selected. If a Party changes their Advisor, they will notify the Title IX Coordinator of the change.

#### **A. Who Can Serve as an Advisor**

The Advisor may be a friend, mentor, family member, attorney, or any other individual who a Party chooses to advise, support, and/or consult with them throughout the Grievance Process. The Parties may choose Advisors from inside or outside of Carroll College community.

#### **B. Appointment of an Advisor**

A Title IX Coordinator will also offer to assign a trained Advisor for any Party. Advisor will be trained and familiar with Carroll College's Grievance Process. Carroll College cannot guarantee equal Advisory rights, meaning that if one Party selects an Advisor who is an attorney, but the other Party does not or cannot afford an attorney, Carroll College is not obligated to provide an attorney.

C. Advisor Not Required Until Hearing

Parties also have the right to choose not to have an Advisor in the initial stages of the Grievance Process prior to a hearing. All Parties must have an Advisor for the hearing.

**XXI. Advisor's Role in Meetings and Interviews**

The Parties may be accompanied by their Advisor in all meetings and interviews at which the Party is entitled to be present, including intake and interviews. Advisors should help the Parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

The Parties are expected to ask and respond to questions on their own behalf at all meeting and interviews. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee during the meeting or interview as needed as long as the consultation does not interfere with or unduly prolong the meeting or interview.

**XXII. Advisors Role in Hearings**

As required under the Title IX federal regulations, the Parties are not permitted to directly question each other or any witnesses at the Hearing. Only the Party's Advisor may question a Party or witness on their behalf. If a Party does not have an Advisor for a Hearing, Carroll College will appoint a trained Advisor for the limited purpose of conducting any questioning of the other Party and witnesses.

A Party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the Party's Advisor will not conduct questioning, Carroll College will appoint an Advisor who will do so, regardless of the participation or non-participation of the advisee in the hearing itself. Questioning of the Parties and witnesses may also be conducted by the Decision Maker during the hearing.

**XXIII. Advisor Responsibilities**

All Advisors are subject to the same Carroll College policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting meetings, interviews or proceedings. The Advisor may not make a presentation or represent their advisee during any meeting, interview or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision Maker except during cross-examination at the Hearing. Any Advisor who fails to follow these requirements will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting, interview or proceeding will be ended or other appropriate measures may be implemented. A Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

**XXIV. Sharing Information with the Advisor**

Parties may share documentation and evidence with their Advisor or other individuals to the extent necessary to assist the Party in the Grievance Process. The Parties may wish to have Carroll College share documentation and evidence related to the allegations directly with their Advisors.

To authorize Carroll College to share information directly with their Advisor, the Parties must submit written consent or authorization allowing Carroll College to release information to the Advisor. Advisors are expected to maintain the privacy of the records shared with them.

**XXV. Privacy of Information and Evidence**

All persons present at any time during the Grievance Process are expected to maintain the privacy of information provided during the Grievance Process in accordance with Carroll College policy. Although there is an expectation of privacy around what Investigators share with Parties during interviews, the Parties may discuss the allegations to the extent such discussion aligns with a Party's right to meaningfully participate in Grievance Process. However, Parties may not discuss the allegations in a manner that constitutes Retaliation or for the purpose of attempting to alter or prevent a witness's testimony.

#### **XXVI. Informal Resolution**

Informal Resolution is available to resolve Formal Complaints except allegations that an employee sexually harassed a student. An Informal Resolution does not require an investigation and hearing under the Title IX Grievance Procedures. Once a Formal Complaint is filed and the Parties are provided Notice of Investigation and Allegations as described in Section XXX, a Title IX Coordinator may facilitate an Informal Resolution process upon the mutual written consent of the Parties.

It is not necessary to pursue Informal Resolution first in order to initiate the Grievance Process, and any Party participating in Informal Resolution may withdraw from the Informal Resolution process prior to the signing of an Informal Resolution Agreement and begin or resume the Title IX Grievance Procedures.

If the Parties reach an agreement on resolving the Formal Complaint and the agreement is approved by a Title IX Coordinator as sufficient to restore and preserve equal access to Carroll College programs and activities, an Informal Resolution Agreement will be executed by the Parties and a Title IX Coordinator.

Informal Resolution Agreements are not appealable. Alleged violations of the Informal Resolution Agreement may be reported to a Title IX Coordinator and may be addressed through student and employee disciplinary processes.

#### **XXVII. Respondent Accepts Responsibility for Alleged Violations**

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the Grievance Process. If the Respondent accepts responsibility for violations of the Title IX Policy, the Title IX Investigator will issue a written determination summarizing the allegations for which the Respondent has accepted responsibility and refer the matter to the Decision Makers for determination of sanctions as to those allegations.

#### **XXVIII. Appointment of Investigators**

A Title IX Coordinator will appoint two Investigators to conduct the investigation. Investigators will be chosen by the Title IX Coordinator from a pool of trained employees, taking care to ensure no bias toward or against either party. If the Respondent raises academic freedom as a defense to the allegations, one Investigator shall be a faculty member. In certain cases, the Title IX Coordinator may choose to hire an outside investigator to ensure no bias, or due to the complexity of the case.

#### **XXIX. Conducting the Investigation**

Carroll College is committed to conducting investigations in a manner that is thorough, reliable, impartial, prompt, and fair.

The Investigators will interview the Parties and relevant witnesses; obtain available, relevant evidence; and may identify sources of expert information, as necessary. All Parties have a full and fair

opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and potential witnesses. The Investigators will provide written notice of the date, time, location, participants and purpose of all investigative interviews with sufficient time for the participant to prepare for the interview.

Each Party will be allowed to review and respond to all evidence directly related to the allegations at least ten (10) business days prior to the completion of the Investigative Report.

The investigators will create a Final Investigative Report that fairly summarizes relevant evidence and will make the Investigative Report available to the Parties for their review and written response at least ten (10) business days prior to the Hearing.

**XXX. Conflict of Interest/Bias**

Any individual designated as a Title IX Coordinator, Investigator, and Decision Maker or any person designated to facilitate an Informal Resolution may neither have nor demonstrate a conflict of interest or bias against Complainants or Respondents generally, or for a specific Complainant or Respondent.

Conflict of Interest

A conflict of interest may exist when personal considerations, including a financial interest or personal relationship, may compromise or may have the appearance of compromising an individual's ability to exercise judgment in a particular matter.

Any allegations or concerns about bias or conflict of interest of an Investigator or Decision Maker should be submitted promptly to the Title IX Coordinator, who will make the final determination on the qualification of the person to participate in the process. Allegations and concerns about bias or conflict of interest of a Title IX Coordinator shall be promptly submitted to the President who will make the final determination on the qualification of the Title IX Coordinator to participate in the process.

**XXXI. Investigation Timeline**

Investigations will be completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. Carroll College will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress and timing of the investigation.

**XXXII. Presumptions and Evidence**

Carroll College operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation. Carroll College uses a preponderance of the evidence standard to determine whether or not the Respondent violated the Title IX Policy.

The Investigators and Decision Makers will objectively evaluate all relevant evidence obtained, including evidence that tends to establish that the Respondent engaged in a policy violation and evidence that tends to establish that the Respondent did not engage in a policy violation. Any credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

The Investigators and Decision Maker will not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

**XXXIII. Privacy of Information and Evidence**

All persons present at any time during the Grievance Process are expected to maintain the privacy of information provided during the Grievance Process in accordance with Carroll College policy. Although there is an expectation of privacy around what Investigators share with Parties during interviews, the Parties may discuss the allegations to the extent such discussion aligns with a Party's right to meaningfully participate in Grievance Process. However, Parties may not discuss the allegations in a manner that constitutes Retaliation or for the purpose of attempting to alter or prevent a witness's testimony.

**XXXIV. Role and Participation of Witnesses in the Investigation**

Witnesses who are employees of Carroll College are expected to cooperate with and participate in Carroll College's investigation and Grievance Process. Failure to cooperate may result in discipline, up to and including termination.

**XXXV. Recording of Interviews**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigators elect to audio and/or video record interviews, all involved parties must be made aware of and consent to audio and/or video recording.

**XXXVI. Referral for Hearing**

Once the Final Investigation Report is provided to the Parties, a Title IX Coordinator will refer the matter for a hearing. The hearing will be scheduled no sooner than ten (10) days from the date the Final Investigation Report is transmitted to the Parties.

**XXXVII. Hearing Decision Maker**

Carroll College will designate a single, trained Decision Maker selected by a Title IX Co-Coordinator. The Decision Maker will also Chair the hearing. The Decision Maker will not have had any previous involvement with the investigation.

A Title IX Coordinator may not serve as a Decision Maker in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role.

The Decision Maker has the authority to hear and make determinations on all allegations of Sexual Harassment and/or Retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the Sexual Harassment and/or Retaliation, even though those collateral allegations may not specifically fall within the Title IX Policy.

### **XXXVIII. Notice of Hearing**

No less than ten (10) business days prior to the hearing, a Title IX Coordinator or the Decision-maker will send notice of the hearing to the Parties.

### **XXXIX. Alternative Hearing Participation Options**

If a Party or witness prefers not to attend or cannot attend the hearing in person, the Party may request alternative arrangements for participation from a Title IX Coordinator at least five (5) business days prior to the hearing. A Title IX Coordinator can arrange to use technology to allow remote testimony and remote participation in the hearing process.

### **XL. Pre-Hearing Preparation**

A Title IX Coordinator will provide the Decision Maker and the Parties with the names of persons who will be participating in the hearing on behalf of the College, access to the evidence collected by the Investigators and reviewed by the Parties, the Final Investigation Report and any written responses of the Parties to the evidence or the Final Investigative Report.

Any witness scheduled to participate in the hearing must have been interviewed by the Investigators during the investigation, unless all Parties and the Decision Maker agree to the witness's participation in the hearing without having been made available during the investigation.

### **XLI. Pre-Hearing Meetings**

The Decision Maker may convene a pre-hearing meeting with the Parties and/or their Advisors to discuss the procedural details regarding the hearing. The Decision Maker may also invite the Parties to submit the questions or topics they wish to ask or discuss at the hearing, so that the Decision Maker can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing. The Decision Maker must document and share with each Party their rationale for any exclusion or inclusion of evidence at a pre-hearing meeting.

The Decision Maker may also consider arguments that evidence identified in the Final Investigation Report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigators may be argued to be relevant.

### **XLII. Hearing Procedures**

Participants at the hearing will include the Decision Maker, the Investigators who conducted the investigation, the Parties, Advisors to the Parties, any witnesses, a Title IX Coordinator or other designated hearing facilitator, and anyone providing authorized accommodations or assistive services.

The Decision Maker will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Decision Maker will allow witnesses to appear for questioning by the Parties and the Decision Maker and to be excused from the Hearing after testifying.

**XLIII. Joint Hearings**

Hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, may be conducted jointly.

**XLIV. The Hearing – Introductions and Explanation of Procedure**

The Decision Maker is responsible for the manner in which the Hearing is conducted. The Decision Maker will explain the procedures and introduce the participants.

At the hearing, recording, witness logistics, Party logistics, curation of documents, separation of the Parties, and other administrative elements of the hearing are managed by a Title IX Coordinator or a hearing facilitator appointed by a Title IX Coordinator.

**XLV. Investigator Presents the Final Investigation Report**

One of the Investigators will present a summary of the Final Investigation Report, including items that are contested and those that are not. Any of the Investigators may be subject to questioning by the Parties’ Advisors and the Decision Maker and. The Investigators will be present during the entire hearing.

Neither the Parties nor the Decision Maker should ask the Investigators their opinions on credibility, recommended findings, or determinations are the responsibility of the Decision Maker and the Investigators, Advisors, and Parties will refrain from discussion of these assessment in their testimony and questioning. If such information is introduced, the Decision Maker will direct that it be disregarded. The Decision Maker is solely responsible for making the final determination in the case.

**XLVI. Testimony and Questioning**

Once the Investigators present their report and are questioned, the Parties and witnesses may provide relevant testimony and evidence, beginning with the Complainant and then in the order determined by the Decision Maker. The Parties/witnesses will submit to questioning by the Parties’ Advisors (“cross-examination”) and the Decision Maker.

Each question asked by an Advisor is subject to a relevance determination by the Decision Maker before the question can be answered by the witness.

The Decision Maker will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Decision Maker will make the final decision on all questions and determinations of relevance.

**XLVII. Refusal to Submit to Cross-Examination and Inferences**

If a Party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the hearing, or they attend but refuse to participate in questioning, the Decision Maker may rely on any prior statement made by that Party or witness at the hearing (including those contained in the Final Investigation Report) in the ultimate determination of responsibility. The Decision Maker must disregard that witness’s statement. Evidence provided that is something other than a statement by the Party or witness may be considered.

The Decision Maker may not draw any inference solely from a Party’s or witness’s absence from the Hearing or refusal to answer cross-examination or other questions.

If a Party’s Advisor of choice refuses to comply with Carroll College’s established rules of decorum for the hearing, Carroll College may require the Party to use a different Advisor. If a Carroll College-

provided Advisor refuses to comply with the rules of decorum, Carroll College may provide that Party with a different Advisor to conduct cross-examination on behalf of that Party.

**XLVIII. Recording Hearings**

Hearings (but not deliberations) are recorded by Carroll College for purposes of review in the event of an appeal. The Parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision Maker, the Parties, their Advisors, and appropriate administrators of Carroll College will be permitted to listen to the recording in a controlled environment determined by a Title IX Co-Coordinator. No person will be given or be allowed to make a copy of the recording without permission of a Title IX Coordinator.

**XLIX. Decision-making and Standard of Proof**

The Decision Maker will determine whether the Respondent is responsible or not responsible for any policy violation(s) using the preponderance of the evidence standard of proof.

When there is a finding of responsibility on one or more of the allegations, the Decision Maker may then consider any Party's impact statements submitted at the Hearing in determining appropriate sanction(s).

Within five (5) business days from the Hearing, the Decision Maker will issue a written determination and deliver it to a Title IX Coordinator. The Decision Maker may request an extension of the timeline for good cause. If an extension is granted, a Title IX Coordinator will notify the Parties.

The written determination will include:

- A. Identification of the allegations potentially constituting Sexual Harassment,
- B. A description of the procedural steps taken from the receipt of the Formal Complaint, including any notifications to the Parties, interviews with the Parties and witnesses, site visits, methods used to gather other evidence, and hearings held,
- C. Findings of fact supporting the determination,
- D. Conclusions regarding the application of the Title IX Policy to the facts,
- E. A statement of, and rationale for, the result as to each allegation and determination of responsibility,
- F. Any disciplinary sanctions that Carroll College will impose on the Respondent. The Decision Maker may consult with the appropriate Carroll College officials regarding appropriate sanctions and may consider the Respondent's previous disciplinary record,
- G. Any remedies designed to restore or preserve equal access to Carroll College's programs or activities that will be provided to the Complainant.

A Title IX Coordinator will provide the final written determination to the Parties by one or more of the following methods: in person or emailed to the Parties' Carroll College-issued email or otherwise approved account. Once emailed and/or received in-person, notice will be presumptively delivered.

## **L. Sanctions**

The range of sanctions that may be applied to student Respondents are the sanctions set forth in the Student Handbook (insert link). The range of sanctions for employee Respondents are those set for as Disciplinary Actions in the Staff Handbook (insert link).

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction after a determination of responsibility. This information is only considered at the sanction stage of the Title IX Grievance Procedure and is not shared until then.

The sanctions will be implemented either upon the outcome of any appeal or upon the expiration of the time to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

## **LI. Appeals**

Any Party may file a request for appeal by submitting a Request for Appeal in writing to a Title IX Coordinator within seven (7) business days of the delivery of the Written Determination of the Hearing Decision Maker. The Request for Appeal should state the reasons for appeal with particularity.

A single Appeal Decision Maker will be appointed by a Title IX Coordinator. An Appeal Decision Maker will not have been involved in the process previously, including any appeal of a dismissal that may have been heard earlier in the process.

The Title IX Coordinator will forward the Request for Appeal to the Appeal Decision Maker for consideration to determine if the request meets the grounds for appeal.

## **LII. Grounds for Appeal**

Appeals are limited to the following grounds:

- A. Procedural irregularity that affected the outcome of the matter;
- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- C. A Title IX Coordinator, Investigator(s), or Decision Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If the Request for Appeal does not meet the grounds for appeal, the request will be denied by the Appeal Decision Maker and the Parties and their Advisors will be notified in writing of the denial and the rationale.

If the grounds for appeal are met, the Appeal Decision Maker will notify the other Party(ies) and their Advisors, a Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision Maker and provide a copy of the Request for Appeal. Notice of appeal will be mailed, emailed, and/or provided in person. The Parties and any other persons notified of the Appeal will be given seven (7) business days to submit a response to matters raised in the appeal that involves

them. All responses will be forwarded by the Appeal Decision Maker to all Parties for review and comment.

The Appeal Decision Maker will render a decision in no more than seven (7) business days, unless the deadline is extended by a Title IX Coordinator for good cause. The Appeal Decision Maker may remand for further proceedings, affirm, reverse, or modify the Written Determination.

The decision on appeal will be sent to all Parties simultaneously including the decision on each approved ground for appeal and the rationale for each decision. Notification will be made in writing and may be delivered in person or emailed to the Parties' Carroll College-issued email or otherwise approved account. Once emailed and/or received in-person, notice will be presumptively delivered.

Once an appeal is decided, the outcome is final and further appeals are not permitted.

### **LIII. Sanctions Status during the Appeal**

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be provided during the appeal process as outlined in Section V.

Carroll College may utilize the emergency removal procedures in Section VI during the appeal process and may place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included suspension or expulsion.

### **LIV. Grievance Process Employee Pool**

Carroll College may rely on a pool of employees (the "Pool") to fulfill roles to administer and carry out the Grievance Procedures, such as Advisors, Investigators, Decision Makers and Appeal Decision-makers. The Pool is comprised of two benefit-eligible staff members from each respective division and twelve full-time faculty members (the "Pool" or "Pool Members"). To the extent possible, the faculty will be evenly selected from each of the three divisions (Science, Social Science, and Humanities).

At the beginning of each fall semester, in consultation with the Title IX Coordinators, each Vice President and Division Head will review the Pool Members in his/her respective division. If a vacancy exists within the Pool membership, the Vice President/Division Head will invite another employee to participate in the Pool. Each Vice President/Division Head will invite Pool Members from the prior year to participate in the Pool each respective year. If a Pool Member declines, the respective Vice President/Division Head will select a replacement member.

An individual previously found to have committed a violation of the Title IX policy is not eligible to serve in the Pool. In such cases, the Director of Human Resources will ask the Vice President/Division Head who submitted the individual's name to invite another individual to participate in the Pool.

Carroll College reserves the right to contract with outside contractors to fulfill the roles of Investigator, Advisor, Title IX Coordinator, Decision Maker and/or Appeal Decision Maker in any case.

Members of the Pool are announced in an annual distribution of this policy to all students, parents/guardians of students, employees, prospective students, and prospective employees.

**LV. Training**

All Carroll College employees who are involved in the Title IX Grievance process, including the Title IX Coordinators, Pool members (Advisors, Investigators, Decision Makers and Appeal Decision Makers) and Vice Presidents and Division Heads, will have adequate training. Pool members and Title IX Coordinators are required to have annual training. All training includes, but is not limited to, the scope of Carroll College's Title IX Sexual Harassment Policy and Procedures, bias, disparate treatment, reporting, confidentiality, and privacy requirements, recognizing and appropriately responding to allegations of Sexual Harassment and retaliation, and how to conduct unbiased investigation and grievance processes.

**LVI. Long-Term Remedies/Other Actions**

Following the conclusion of the Grievance Process, and in addition to any sanctions implemented, a Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the campus community that are intended to stop the Sexual Harassment and/or retaliation, remedy the effects, and prevent reoccurrence which may include, but are not limited to referral to counseling and health services, permanent alteration of housing assignments for students, permanent alteration of work arrangements for employees and implementation of long-term contact limitations between the Parties.

**LVII. Failure to Comply**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision Maker (including the Appeal Decision Maker). Failure to abide by the sanction(s)/action(s) imposed may result in additional sanction(s)/action(s).

**LVIII. Recordkeeping**

Carroll College will maintain Title IX Grievance Process records for a period of at least seven years. Carroll College will also maintain any and all records in accordance with state and federal laws.

**LIX. Disabilities Accommodations in the Resolution Process**

Carroll College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to Carroll College's Grievance Process.

**LX. Revision of this Policy and Procedures**

These Grievance Procedures supersede any policy or handbook provisions previously adopted that relate to the resolution of Sexual Harassment reports or complaints within the jurisdiction of the Title IX Policy. Carroll College has a separate Equal Opportunity Policy ([insert link](#)) that will be used to resolve complaints alleging discrimination other than Sexual Harassment as defined by the Title IX Policy or complaints that are not within the jurisdiction of the Title IX Policy.

If federal or state laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

These procedures are effective upon formal approval and will apply to reports and complaints of Sexual Harassment received after that date.

<b>REQUIRED APPROVALS</b>	<b>NAME</b>	<b>DATE</b>
Originator(s) Name(s)	Annette Walstad, Title IX Coordinator Karla Smith, Title IX Coordinator	May 13, 2021
Approval by Board of Trustees	Board of Trustees	May 13, 2021