

**THREE RIVERS COLLEGE  
PERSONNEL REGULATION**

Section: 4000 Personnel	
Sub Section: 4800 Employee Welfare	
Title: PR 4840 Title IX for Employees	Page 1 of 15
Primary Policy: GAP 1200 Equal Opportunity	
Associated Policy: GAP 1205 Code of Ethics; PP 4820 Consensual Relationships; PP 4850 Employee Grievance	
Associated Regulations: PR 4730 Suspension or Termination; PR 4850 Employee Grievance	
References: Title IX of the Education Amendments Act of 1972; Title IX Incident Reporting Portal; Clery Act, Violence Against Women Act (2013); Family Education Rights and Privacy Act (FERPA); Title IX Final Rule (2020)	
Supersedes: NA	
Responsible Administrator: Director of Human Resources	
Initial Approval: 09-25-2010	Last Revision: 11-04-2020

Three Rivers College is obligated under Title IX to enforce strategies to educate our students and employees regarding Title IX, and to provide remedies that allow for an immediate response to sexual harassment. The purpose of this Regulation is to establish complaint procedures for sexual harassment as defined herein by the Title IX Final Rule. Title IX sexual harassment complaints may involve a student, teacher, administrator, or other College personnel, or any other person or persons who are participating in, observing, or otherwise engaging in an educational program or activity over which the College exercises substantial control. To further qualify as a Title IX complaint, college control must also be over the respondent in the context in which the sexual harassment occurs, and must have occurred during events, or circumstances and at buildings or locations that are owned or controlled by the college or a student organization that is officially recognized by the college, and must have occurred at a location within the United States. Any other types of employee complaints should be processed through the Office of Human Resources. Other types of employee complaints may be processed through the College Regulation PR 4850 Employee Grievance or other College complaint processes.

The Title IX reporting processes established herein provides a specific complaint and appellate process; enforces disciplinary actions that may be taken against any employee found guilty of misconduct judged to be Title IX related; defines appropriate actions which may be taken against any person who knowingly and/or intentionally files a false complaint of Title IX against another; and to ensure non-retaliation against those who file a complaint or participate in the process.

It is the policy of Three Rivers College and its Board of Trustees that each student and employee attends and works in a hostile free environment at the College. The College shall respond to the following types of sexual harassment allegations considered to create a hostile environment according to the Federal Title IX Legislation:

- 1) Quid Pro Quo--School employee conditioning education benefits on participation in an educational program or work-related activity in unwelcome sexual conduct; or

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- 2) Unwelcome conduct that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies a person equal access to the school’s education program or activity; or
- 3) “Sexual assault,” “dating violence,” domestic violence,” or “stalking” as defined in Federal Law under the Clery Act and the Violence Against Women Act (VAWA).

**Federal Definitions**

Advisor\*: for the purpose of the formal hearing process, an advisor may be chosen by each party. Advisors may be a parent or guardian, legal counsel, counselor, etc. or someone appointed by the College. Advisors perform cross-examination during the live hearing under review of the Decision Maker. The College reserves the right to hire an outside party to fulfill the role of Advisor.

Clery Act: a federal law that requires institutions of higher education in the United States to disclose campus security information including crime statistics for the campus and surrounding areas. First enacted by Congress in 1990 and most recently amended in 2013 by the Violence Against Women Reauthorization Act.

Complainant: an individual *alleging to be the victim* of conduct that could constitute sexual harassment as defined by the Title IX Final Rule herein.

Consent: knowing, voluntary, and clear permission by word or action to engage in sexual activity. To give permission. Consent can be revoked at any moment. The absence of “no” does not mean “yes.”

Decision Maker\*: an individual appointed and trained to participate in cross-examination by fielding questions and is the person who creates the Final Report. The College reserves the right to hire an outside party to fulfill this role. In the event of a “Title IX Appeal”, the Decision Maker is known as the “Appeal Officer” and serves in the same capacity that fulfills the same duties

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however, cannot be the same individual who was the Decision Marker for the first part of the Title IX hearing.

**Egregious:** An act to be shocking, appalling, awful, horrendous, frightful, atrocious, abominable, shameful, and intolerable.

**Evidence:** As applied in this procedure, any information, including documents and testimony, related to the alleged circumstances, which gave rise to the complaint.

**Facilitator\*:** an individual appointed and trained to facilitate any informal resolution process, to ensure it is free of conflict or bias. The College reserves the right to hire an outside party to fulfill this role.

**Formal Complaint:** a signed document filed by a complainant alleging sexual harassment against a respondent and requesting the school investigate the allegation of sexual harassment. If the initial complaint was reported verbally, the complainant’s signature may be required to formalize the complaint for it to move forward in the process.

**Incapacitation:** a state where someone cannot make a rational, reasonable decision because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

**Investigator\*:** an individual appointed and trained to investigate Title IX complaints and the individual who creates the Investigative Report. The College reserves the right to hire an outside party to fulfill this role.

**Mandatory Reporter:** any part-time or full-time employee of the College is considered a “mandatory reporter.”

**Preponderance of Evidence:** The burden of proof is met when the party with the burden convinces that there is a greater than 50% chance that the claim is true.

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

Retaliation: Retaliation includes, but is not limited to, any form of intimidation, reprisal, stalking, or misconduct against individuals who have filed a charge or participated in an investigation or opposed any unlawful practice. This includes retaliation against any person who testifies or assists with the case either formally or informally.

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

Title IX of the Education Amendments Act of 1972: The Title IX of the Education Amendments Act of 1972 is a Federal Law that states: “No person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal Financial assistance.”

Violence Against Women Act (VAWA): A Federal Law passed to combat violence against women and provide protection to women who have suffered violent abuses. It was initially signed into law in September 1994 and reauthorized in 2000, 2005, and 2013.

*\*Appeal Officers, Decision Makers, Facilitators, Investigators, College-appointed Advisors, and Title IX Co-Coordinator Officers must be free from conflict of interest or bias for or against complainant or respondent.*

**Reporting Procedure**

This Title IX Reporting Procedure Regulation applies to all Three Rivers College employees. The College Title IX procedure for employees is intended to provide an individual employee, or group of employees hereafter referred to as the complainant, an opportunity to file a Title IX related complaint in an effort to seek a resolution through a College process devoid of coercion,

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interference, restraint, discrimination or reprisal. The College shall retain a copy of the entire Title IX case proceedings for a minimum of 7 years.

Three Rivers College considers Title IX complaints egregious, and therefore has established prompt and effective steps to immediately end the sexual harassment eliminate the hostile environment and prevent its recurrence as appropriate. It is the intention of Three Rivers College to seek a resolution through this Title IX process. All reports will be investigated promptly, thoroughly, and equitably and result in a resolution of the complaint, which may result in disciplinary action, up to and including employee(s) possible suspension or termination as deemed appropriate.

The College will take appropriate action against any employee, or group of employees who retaliates against any person due to participation in a Title IX procedure, proceeding, investigation, or hearing. This includes retaliation against any person who testifies or assists with the case.

The following reporting procedures are applicable to any employee who believes he or she has been the victim of sexual harassment (as defined herein by the Title IX Final Rule) by an employee, student, teacher, administrator, other College personnel, or by any other person participating in, observing, or otherwise engaged in a College program or activity, including locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and any building owned or controlled by a student organization officially recognized by the College.

Such individuals should immediately report the alleged acts to appropriate College personnel or the Official Title IX Co-Coordinator Officers.

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Any College employee (Mandatory Reporter) who has or receives notice a student or employee has or may have been the victim of a suspected Title IX incident is required to immediately report the alleged acts to a Title IX Co-Coordinator Officer.

The College encourages the complainant to use the Title IX Incident Reporting Portal available as a fillable incident form found on our *“Speak Up”* web page found on the *“Quick Links”* page of the College website. Use of the formal reporting forms is not mandated. Reports will also be accepted in person, by mail, by telephone, or by electronic mail using the contact information listed for the Title IX Co-Coordinator Officers. The designated Title IX Co-Coordinator Officers are trained to address such complaints. Any person may report potential Title IX complaints to the Title IX Co-Coordinator Officers.

1. Any person may report sexual harassment (whether or not the person reporting is the alleged victim of conduct), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Co-Coordinator Officer, or by any other means that results in the Title IX Co-Coordinator Officer receiving the person’s verbal

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or written report. The report may be made at any time (including during non-business hours). If the complaint involves the supervisor, the complaint shall be made or filed directly with the College’s Title IX Co-Coordinator Officer by the complainant.

2. The President has designated the Director of Human Resources as the College’s Title IX Co-Coordinator Officer for employee complaints, with responsibility to identify, prevent, and remedy sexual harassment.
3. The College Title IX Co-Coordinator Officer shall:
  - receive reports or complaints of sexual harassment
  - oversee the investigative process, ensure equitability, and ensure an objective evaluation of all evidence.
  - promptly contact complainant and offer supportive measures to the complainant with or without the filing of a formal complaint and explain the process for filing a formal complaint. Examples of supportive measures are: counseling, extensions or deadlines, modifications of work or class schedules, campus police escort, increased security or monitoring of parts of campus or mutual restrictions on contact between individuals.
  - be responsible for assessing the training needs of the College's staff and students in connection with the dissemination, comprehension, and College compliance with Title IX as well as overseeing this Title IX Reporting Procedure Regulation. This training includes annual training for the Title IX Co-Coordinator Officers, Decision Maker(s), Investigator(s), College provided advisor(s) and facilitator(s).
  - oversee any sanctions due to retaliation or outcome of hearing

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4. If any complaint involves a Title IX Co-Coordinator Officer (designated for employees), the complaint shall be filed with the alternate Title IX Co-Coordinator Officer (the Chief Student Services Officer, who is designated for employees). Both Title IX Co-Coordinator Officers are equally trained to handle Title IX complaints.
5. The College shall conspicuously post a notice against unlawful Title IX misconduct in each building in a place accessible to students, faculty, administrators, employees, parents, and members of the public. This notice may include the name, mailing address, electronic address and telephone number of the: College Title IX Co-Coordinator Officers.
6. Details regarding this Title IX Reporting Procedure Regulation shall be referenced in the College Employee Handbook and employment page of the College website.
7. This Title IX Reporting Procedure Regulation shall be reviewed annually for alignment with College operations and for compliance with state and federal law(s).
8. Three Rivers College will respect the privacy of the complainant, the individuals against whom the complaint is filed(respondent), and the witnesses as much as possible, consistent with the College's legal obligations to investigate, take appropriate action, and conform to any discovery or disclosure obligations under Title IX.

**Process**

1. Formal Complaint is received (verbal or written).
2. Title IX Co-Coordinator Officer reviews complaint and ensures the Complainant signs the formal complaint.

The following describes possible outcomes based on the initial review of the complaint:



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- a. The College **MUST** dismiss a complaint that:
  - i. does not meet the definition of sexual harassment. (Title IX Final Rule)
  - ii. alleges sexual harassment did not occur in a College controlled educational program or activity.
  - iii. alleges sexual harassment did not occur in the United States and at a College controlled or owned building.
- b. The College **MAY** dismiss a complaint when:
  - i. complainant withdraws formal complaint in writing.
  - ii. respondent is no longer enrolled at the College.
  - iii. may not gather evidence to reach a determination about the allegations.
- c. If the complaint is dismissed:
  - i. promptly send reasons of dismissal to both parties (via electronic or hard copy format).
  - ii. either party may request that the decision be reconsidered within 3 days to the Office of the President

NOTE: When a case is dismissed as a Title IX investigation but is pursued by the College under a different disciplinary procedure; the College must first have a signed closure document on file to formally close the Title IX.

3. Emergency Removal- College reserves the right to remove the respondent from an educational program, activity, or position if the institution conducts an individualized

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safety and risk analysis and determines there is an immediate threat to anyone’s physical health or safety. An employee may be placed on paid administrative leave during the investigative process. The College must provide the respondent with notice and opportunity to challenge the decision immediately following the removal, via electronic or hard copy format. A request to reconsider must be submitted in writing within 3 days to the Office of the President.

4. Notification of Process - Written notice must be sent to complainant and respondent via electronic or hard copy format explaining the process, the presumption of innocence of the respondent (respondent also has supportive measures available), allegations and facts about the alleged sexual harassment, availability of an informal resolution process, each is able to have an advisor (may be an attorney) at any meeting, interview or hearing, option for either party to inspect and review evidence. There are consequences for submitting a false statement and this shall be handled through College policy and regulatory rules that do not tolerate the submitting of a false statement. Refer to GAP 1205 Code of Ethics and PP/PR 4730 Suspension or Termination.
  - a. Informal Resolution
    - i. Informal Resolution process is permitted for employees **except** for allegations that an employee harassed a student.
    - ii. Each party must agree to the informal resolution voluntarily.
    - iii. Facilitator oversees the resolution free of conflict or bias.
    - iv. Complainant and respondent are notified via electronic or hard copy format of allegation(s), notice of rights, information about informal process and confidentiality, and either party may withdraw from the informal process at any time.

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5. Temporary delay of process is permitted only for good cause. Good cause may include law enforcement activities, the absence of a party or witness, the absence of a party advisor of choice, or the need to provide language assistance or accommodation of disabilities to either party.
6. A trained investigator(s) is assigned to investigate the formal complaint.
  - a. Formal notification will be given to complainant, respondent and witnesses, in writing via electronic or hard copy format, before their interviews for the investigative process—Date, time, location, participants, and purpose of interview or meeting. Advisor for the complainant and respondent may be present during interviews, meetings or hearing.
  - b. As part of the investigation, any evidence gathered must have the date, time, and place it was obtained. Examples of evidence are documents, notes from interviews with complainant, respondent and witnesses, and other types of school gathered documents. No information protected by a legal privilege, such as attorney-client privilege or doctor-patient privilege, may be used during an investigation unless the person holding the privilege has waived that privilege. The College is not allowed to access a party’s personal records if they are maintained by a physician, psychiatrist, psychologist, or other professional for the purpose of treatment to the party, without that party’s consent.
7. The College will prepare an Investigative Report that includes evidence gathered by the College through the course of the investigation and how the evidence applies to the formal complaint. The Investigative Report will be sent via electronic or hard copy format to the complainant and respondent. The College will keep a record of all proceedings for seven years.
  - a. Both parties have 10 days to review and respond.

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- b. The College will consider any responses before finalizing the report.
- c. Final report is sent to both parties who have 10 days to review before a hearing takes place.

**8. Formal Hearing Process**

- a. Both parties will have an advisor. If either party does not have an advisor, one will be appointed by the College. College-appointed advisors will be free from conflict of interest or bias, for or against either party.
- b. The Advisors may ask questions (cross-examine) either party and/or witnesses in front of the Decision Maker.
- c. Either the Complainant or Respondent may request to be in separate rooms connected via technology during the hearing.
- d. The Decision Maker will make sure the questions are relevant.
- e. Prior sexual behaviors of complainant may not be brought up except:
  - i. Information that will offer to prove someone other than the respondent committed the alleged sexual harassment; or
  - ii. It relates to sexual behavior between respondent and complainant that offers to prove consent.
- f. Either party or witnesses may choose not to participate in cross-examination at the live hearing. The Decision Maker must not rely solely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Decision Maker may not draw an inference about the determination regarding responsibility based solely on a party's or

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witness's absence from the live hearing or refusal to answer cross-examination or other questions.

- g. The hearing will be recorded and/or transcribed and will be available to both parties for review via electronic or hard copy format.

9. Decision Makers final report

- a. Findings are written and shows the College's policy that was violated, if any.
- b. Description of procedural steps used to get to the finding.
- c. There will be a findings fact section
- d. Explanation of how they drew the conclusion from the facts section
- e. Statement and rationale for the ultimate determination of responsibility using Preponderance of Evidence standard.
- f. Disciplinary sanctions the College will impose on respondent and state any remedies for the complainant. Possible sanctions or disciplinary action may include probation, forced withdrawal, suspension or termination of employment.
- g. Statement and rationale for remedies for complainant, addressing how remedies will restore or preserve equal access to the learning environment.
- h. Statement how either party has the right to appeal, procedures for appeal and permissible basis for appeal. The Complainant or respondent will have 3 business days to appeal.
- i. Determination will be sent simultaneously along with appeal information via electronic or hard copy format.

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10. Grounds for an Appeal (Title IX appeal process herein must be used)

- a. Procedural irregularity affected outcome of matter.
- b. New evidence discovered after determination
- c. Conflict of interest on part of Title IX Co-Coordinator Officer, investigator or Decision Maker.

11. If either party appeals (Title IX appeal process herein must be used)

- a. Notify complainant and respondent in writing, via electronic or hard copy format, of the basis of the appeal.
- b. Both complainant and respondent may submit written statement via electronic or hard copy format supporting or challenging the appeal.
- c. A different Decision Maker shall be known as the "Appeal Officer" will review the appeal and any other supporting documents. (May not be the same individual as the Decision Maker as previously appointed.)
- d. Findings will be written with decision to approve or deny appeal and sent simultaneously to both parties via electronic or hard copy format.
- e. Appeal decision is final.

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**DOCUMENT HISTORY:**

- 09-25-2010:** Initial approval of regulation GAR 1240 Misconduct.
- 07-15-2015:** Revision to be in compliance with Federal Law regarding Title IX, 9-17-14.
- 09-16-2015:** Revision of position title Dean of Student Services to Chief Student Services Officer.
- 08-30-2016:** Minor edits regarding timeline and review team.
- 09-21-2016:** The College Board of Trustees approved the name change of the college from Three Rivers Community College to Three Rivers College.
- 07-19-2017:** Revise title and regulation reworded for clarity of process from: GAR 1240 Harassment to PR 4840 Title IX for Employees.
- 12-12-2019:** Minor edits to include Reporting Portal.
- 08-19-2020:** Revision for compliance with the U.S. Department of Education Title IX Final Rule, effective 8-14-2020.
- 11-04-2020:** The addition of the following two terms with definitions for clarity; Consent and Incapacitation.