

I.2. Determination Regarding Responsibility

For the purpose of making a determination regarding responsibility, the College shall appoint decision-maker(s) who cannot be the same person as the Title IX Coordinator or the designated investigator(s), if any, as described in the College's grievance procedures set forth above.^[1] When making a determination regarding responsibility, the College must apply the standard of evidence as defined above (preponderance of evidence).^[2]

The College's decision-makers shall issue a written determination regarding responsibility.^[3] The College shall issue the written determination to the parties simultaneously.^[4] The College's written determination shall include:

1. identification of the allegations potentially constituting Section I – Title IX Prohibited Conduct as defined in this Policy;
2. a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. findings of fact supporting the determination;
4. conclusions regarding the application of the College's code of conduct to the facts;
5. a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
6. the College's procedures and permissible bases for the complainant and respondent to appeal.^[5]

If the College finds a respondent responsible for sexual harassment, the College will provide remedies to the complainant that are designed by restore or preserve equal access to the College's education program or activity. Remedies may include supportive measures already provided to the complainant, or additional services. Remedies can be disciplinary or punitive and can burden the respondent.^[6]

Sanctions, as outlined in Appendix B of this Policy, will take into account the seriousness of the prohibited conduct as compared to like cases in the past, the respondent's previous disciplinary history (if any), and institutional principles. Specifically, sanctions will be set by the hearing panel, as follows:

If an undergraduate or graduate student is found responsible for violating Section I of this Policy, the panel of decision-makers shall determine the appropriate sanction(s) and remedies, as listed in Appendix "B" of this Policy. Any sanctions and remedies will be included in the written determination, and sanctions will be subject to appeal under this Section I (I.4). The written determination shall be sent to the Dean of Students.

If a staff or faculty member is found responsible, the case record (consisting of the case file and responses, investigative report and responses, hearing recording, and written determination relating to the finding of responsibility) will be forwarded to the Director of Human Resources, who will determine sanctions and remedies, as listed in Appendix "B" of this Policy, in consultation with appropriate College administrators. In the event that the Director of Human Resources is unavailable, an appropriately trained College official will serve as the substitute. Any sanctions and remedies will be included in the written determination, and sanctions will be subject to appeal under this Section I (I.5).

The College shall list all of the possible sanctions or supportive measures that the College may impose following the results of any College disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking in its annual security report, all of which are listed in Appendix B.^[7] The complainant and the respondent shall be simultaneously informed in writing of the outcome of any institutional disciplinary proceeding, the institution's procedures for the accused and the complainant to appeal the results of the institutional disciplinary proceeding, any change to the results that occurs prior to the time that such results become final, and when such results become final.^[8]

The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.^[9]___

The Title IX Coordinator is responsible for the effective implementation of any sanctions or remedies.^[10]___

[1] 34 CFR §106.45(b)(7)(i).

[2] 34 CFR §106.45(b)(7)(i).

[3] 34 CFR §106.45(b)(7)(i).

[4] 34 CFR §106.45(b)(7)(iii).

[5] 34 CFR §106.45(b)(7)(ii)(A)-(F).

[6] 34 CFR §106.45(b)(1)(i).

[7] 34 CFR §668.46(k)(1)(k)(iii)

[8] 20 U.S.C. § 1092(f)(8)(B)(iv)(III).

[9] 34 CFR §106.45(b)(7)(iii).

[10] 34 CFR §106.45(b)(7)(iv).