



## **NCCC Board of Trustees Approved Policy**

**POLICY:** Title IX Informal Resolution Policy

**DRAFTED:** September 2023

**ADOPTED:** February 23, 2024

**UPDATED:**

### **I. POLICY STATEMENT**

North Country Community College, sponsored by Essex County and Franklin County, is part of the State University of New York (SUNY) system. The establishment of policies is the responsibility of the North Country Community College Board of Trustees, while assisting in the application and compliance with those policies is the responsibility of the College administration. We maintain and affirm that the most equitable and fair policies are those that involve shared governance, and we are committed to engaging the College community in the development/modification of established policies wherever possible. This policy follows that process.

### **II. SCOPE**

The following policy applies to students and employees of North Country Community College on all campuses and remotely. Herein, North Country Community College will be referred to as “NCCC” or the “College.”

### **III. POLICY**

Parties who do not wish to proceed with a Title IX investigation and live hearing, and instead seek the North Country Community College’s (NCCC) assistance to resolve allegations of Title IX-covered misconduct, may elect to enter the Title IX informal resolution process. Generally speaking, these resolution options are less time intensive than an investigation and live hearing, while still affording students an opportunity to actively participate in a process led by the College for resolution of their complaints.

The Parties may elect to enter the College’s Title IX informal resolution process at any time after the filing of the Title IX Formal Complaint through an informed written consent. This informed written consent will include all terms of the elected informal process, including a statement that any agreement reached through the process is binding on the Parties.

No Party may be required to participate in the Title IX informal resolution, and NCCC may never condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to informal resolution.

The Parties may elect to leave the Title IX informal resolution process at any point until the informal resolution process is concluded. If a Party elects to leave the Title IX

informal resolution process, the formal Title IX resolution process recommences. In participating in the informal resolution process, the Parties understand that the timeframes governing the formal process temporarily cease, and only recommence upon reentry into the formal process.

### **Determination to Approve Entry into Informal Resolution Process**

Even where the Parties agree to submit a matter to the Title IX informal resolution, informal resolution processes commonly require the Title IX Coordinator or other designated official to approve the Parties' mutual and voluntary decision to handle the complaint through an informal process. At NCCC the Title IX Coordinator or other designated official **must** approve the decision to move the matter to the Title IX informal resolution process and may determine that informal resolution is not appropriate under the circumstances.

Factors that the Title IX Coordinator or other designated official may weigh in considering the appropriateness of the informal resolution process include, but are not limited to the following, and this determination is not subject to appeal:

- (1) the gravity of the allegations,
- (2) whether there is an ongoing threat of harm or safety to the campus,
- (3) whether the respondent is a repeat offender, and
- (4) whether the Parties are participating in good faith.

At any time after the commencement of the informal resolution process, the Title IX Coordinator or other designated official may determine that the informal resolution process is not an appropriate method for resolving the matter and may require that the matter be resolved through the formal process. This determination is not subject to appeal.

Note, Title IX informal resolution is only permitted to address allegations of **student-on-student** sexual harassment and is never allowed as an option to resolve allegations that an **employee** sexually harassed a student. See, 85 Fed. Reg. 30026, 30054 (May 19, 2020).

### **Role of the Facilitator**

Informal resolution processes are managed by facilitators, who may not have a conflict of interest or bias in favor of or against complainants or respondents generally or regarding the specific Parties in the matter. The Title IX Coordinator may serve as the facilitator, subject to these restrictions.

All facilitators must have training in the definition of sexual harassment under 34 C.F.R. § 106.30(a), the scope of the institution's education program or activity, how to conduct informal resolution processes, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, or bias.

### **Confidentiality**

In entering the informal resolution process, the Parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the informal resolution process concerning the allegations of the Formal Complaint is confidential while the parties are participating in the informal resolution process. No evidence concerning the allegations obtained within the informal resolution process may be

disseminated to any person, provided that any Party to the informal resolution process may generally discuss the allegations under investigation with a parent, friend, advisor, or other source of emotional support, or with an advocacy organization. **Should the Parties withdraw from the informal resolution process, information disclosed or obtained for purposes of the informal resolution process may be incorporated into the formal investigation and live hearing, provided that this information is disclosed and reviewed by the Parties under the investigatory and hearing procedures described in the Title IX Grievance Process.**

#### IV. DEFINITIONS:

Parties – Both the Reporting Individual/Complainant and the Respondent/Accused are considered “the Parties” referenced in this policy.

#### V. RESPONSE PROCEDURES:

##### **Informal Resolution Options**

North Country Community College offers the following informal resolution procedures for addressing Formal Complaints of sexual harassment covered under the Title IX Policy.

1. **Administrative Resolution** - Should the Parties mutually determine to enter the informal resolution process, and the respondent elects to accept responsibility for the allegations of the Formal Complaint at any point during the informal resolution process, the institution may administratively resolve the Formal Complaint.

Where the respondent admits responsibility, the Parties will receive simultaneous written notification of the acceptance of responsibility, and a panel will convene to determine the respondent’s sanction and other remedies, as appropriate and consistent with institutional policy. The Parties will be given an opportunity to be heard at the sanctions hearing, including but not limited to the submission of impact statements, and the Parties may be accompanied by their Advisor, but questioning of Parties or witnesses will not be permitted. The Parties will receive simultaneous written notification of the decision regarding sanctions and remedies, which may be appealed according to the process described below as outlined in the North Country Community College Title IX Grievance Policy.

The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the institution’s own procedures);
- 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;
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.
- Students may appeal the "severity of sanction" that has been imposed by presenting a statement explaining why they feel the penalty is too severe.

The submission of appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal. If a party appeals, the institution will as soon as practicable notify the other party in writing of the appeal, however the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal.

Appeals should be submitted in electronic form using 12-point font and single-spaced. Appeals that do not meet these standards may be returned to the party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards. Appeals will be reviewed and decided by an appeal panel, whose members will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decision-maker in the same matter. Appellate hearing panels have the option to (1) uphold the original decision and sanction, (2) institute a modified decision and/or sanction, or (3) request the case be reheard in its entirety. Option 3 will only be utilized in cases with significant procedural lapses that impacted the decision-making of the original Title IX Hearing Board.

The determination of responsibility made by the appellate hearing board is final and may only be overturned by the Office of the President. The appellate hearing panel facilitator will communicate the results of any appeal simultaneously and in writing to the respondent, the Administrative Hearing Officer, the Associate Vice President of Student Affairs/Title IX Coordinator and/or the Vice President of Academic Affairs, and the President's Office. Copies of all Title IX records will remain on file at the College permanently. Outcome of the appeal will be provided in writing simultaneously to both parties and include rationale for the decision.

- 2. Mediation** - The purpose of mediation is for the parties who are in conflict to identify the implications of a student's actions and, with the assistance of a trained facilitator, identify points of agreement and appropriate remedies to address them. Either party can request mediation to seek resolution; mediation will be used only with the consent of both parties, who will be asked not to contact one another during the process. The Title IX Coordinator will also review any request for mediation and may decline to mediate based on the facts and circumstances of the particular case. Either party has the right to terminate the mediation process and choose or resume another option for resolution at any time.

The mediation process will typically commence within 10 days after the Title IX Coordinator receives consent to mediate from both parties and will continue until concluded or terminated by either party or the Title IX Coordinator. During mediation, any potential investigation will halt, and calculations for time frames will be stayed. If the mediation results in a resolution, the disciplinary process will conclude and the matter will be closed.

During mediation, a facilitator will guide a discussion between the parties. In circumstances where the parties do not wish to meet face to face, either party can request "caucus" mediation, and the facilitator will conduct separate meetings. Whether or not the parties agree to meet face to face, each party will be permitted to bring an advisor of their choice to any meetings who may be, but is not required to be, an attorney.

At the conclusion of the mediation, the facilitator will memorialize the agreement that was reached between the parties. The Title IX Coordinator will monitor adherence to the

proposed solution and close the matter when compliance is satisfactory.

- 3. Restorative Justice** - A restorative justice conference is a dialogue, facilitated by a designated college official with appropriate training, intended to restore relationships and repair harm after a conflict has occurred. Both the responsible party and the individuals affected by the conflict come together to identify what harm was caused and, collaboratively, determine how conflict and trust might be, respectively, resolved and repaired.

A Party may request to engage in a restorative justice conference at any stage of the process, however, restorative justice may not be an appropriate mechanism for all conflicts. To qualify for the restorative justice resolution option, the student accused of wrongdoing must accept responsibility and express remorse for the harm that was caused. The harmed party must also be willing to accept an apology offered by the student accused of wrongdoing. Additionally, all involved parties must agree to and abide by measurable and timely actions within the scope of this Policy and directives. The Title IX Coordinator will review any request for restorative justice resolution and may decline to initiate restorative justice based on the facts and circumstances of the particular case.

The restorative justice conference proceeds only if all parties agree to participate willingly. Upon doing so, the process typically commences within 10 days after the Title IX Coordinator receives written agreements from all involved parties. The conference will continue until the conference is successfully concluded or until the Title IX Coordinator determines that the conference will not be successful. If successful, an agreeable resolution is reached by all involved parties, at which time the process is concluded, and the matter is resolved.

The Title IX Coordinator will monitor the parties' adherence to their proposed solution and reserves the right to close the matter when compliance is satisfactory.

## **VI. SANCTIONS**

If a resolution cannot be reached, the matter will be referred to the Associate Vice President of Student Affairs/Dean of Students to re-evaluate other options for resolution.

## **VII. REFERENCES**

[85 Fed. Reg. 30026, 30054 \(May 19, 2020\)](#)

[34 C.F.R. § 106.30\(a\)](#)

[Title IX Services and Policy](#)