



# EL PASO COMMUNITY COLLEGE PROCEDURE

For information, contact Institutional Effectiveness: (915) 831-6740

**DIAA-1**

**Title IX Procedure:  
Grievance Process for  
Formal Complaints for  
Employees  
(Working Draft: Considered  
Official)**

**APPROVED:**  
Year of last review: 2024  
**AUTHORIZING BOARD POLICY:** DIAA (see also FFDA)

**REVISED:**

Classification: Administrative

Responsible Vice President or Associate Vice President: Vice President of Financial and Administrative Operations

Designated Contact: Interim AVP, Human Resource Management & Compliance

**OBJECTIVE:** The College District supports fair, robust procedural protections for complainants and respondents (each a “party,” collectively the “parties”) participating in its Title IX grievance hearing process. To that end, the College District shall endeavor to treat complainants and respondents equitably and afford any rights or opportunities available to one party under this procedure to the other party, unless otherwise required by state or federal law or regulation; protect against conflicts of interest and bias in the grievance process; and ensure an objective evaluation of all relevant evidence, in accordance with the law and College District Policy.

**PROCEDURE:**

**I. Standard of Evidence**

A respondent shall be presumed not responsible for an allegation that is the subject of a formal complaint under this procedure unless and until that presumption is disproved or outweighed by a preponderance of the evidence (i.e., it is determined based on facts that are more likely true than not that the respondent engaged in the alleged conduct).

**Title IX Committee**

The Title IX Committee (the “Committee”), shall be appointed by the College District’s President or his/her designee. The Committee may assign a designee and may act as a Committee or through its designee. The Committee and its designee shall be trained in Title IX procedures.

**Investigator and Investigative Report**

The Committee or designee shall appoint an Investigator, who may be an employee of the College District and be trained in Title IX procedures and who shall not be a Hearing Officer or Decision-maker in a hearing, to receive and consider formal complaints under this procedure. The Investigator shall be charged with the investigation of a formal complaint and shall consider all evidence directly related to the allegations in the formal complaint, whether inculpatory or exculpatory, regardless of the source of the evidence. The Investigator shall take care to expeditiously pursue the investigation consistent with the duty to comprehensively and fairly review evidence necessary to the investigation.

As soon as is reasonably feasible after the Investigator is satisfied that the investigation is finished, the Investigator shall provide a preliminary written Investigative Report to the Committee and the parties. The Investigative Report shall summarize the allegations, describe all evidence for and against the allegations, and make recommendations for a finding whether there has been misconduct alleged in the allegations or other misconduct that would be recognized in the Title IX procedures. The Investigator shall also send to the Committee or designee and the parties and parties’ Title IX Advisors, if any, all evidence considered in the preliminary Investigative Report in either hard copy or electronic format.

The Investigative Report shall notify the parties that they can review the evidence considered in and provided with the Investigative Report and submit written responses to the Investigator within ten (10) business days of receipt. The Investigative Report shall also notify the parties that they may request an extension of time for response if a party believes and the Investigator agrees that good cause justifies the extension. Any extension for a longer period for

response to the preliminary Investigative Report provided to one party must be provided to all parties with appropriate notice.

After considering all written responses to the Investigation Report, if any, the Investigator shall promptly complete the Investigation Report and send the final report to the Committee or designee and the parties, as well as all evidence considered in the completed Investigative Report in either hard copy or electronic format.

## **II. Scheduling Hearing**

The Committee or designee shall summon the parties for a hearing in accordance with Policy DIAA (Local), at which time all parties must be physically present. At the discretion of the College District, any or all parties, witnesses, and other participants to the hearing may participate in the hearing via videoconference, provided such participation is facilitated by technology that allows for all participants to simultaneously see and hear each other.

The Committee or designee shall contact the parties by phone or email to schedule the hearing within a reasonable time frame, not to exceed ten (10) business days after the Title IX Committee and the parties have received the completed Investigative Report, absent extenuating circumstances, including delay in providing notice to the parties and appointment of requested hearing Title IX Advisor(s). If contact is delayed for any reason, prompt notice of the delay and the reason for the delay shall be provided in writing to each party. The Committee or designee, to the extent possible, shall consider the schedules of the parties and participants to the hearing when scheduling the hearing. However, in all cases, the Committee or designee shall endeavor to schedule the hearing to ensure a prompt resolution to the allegations.

### **Notice of Hearing**

The Committee or designee shall notify the parties in writing of the date, time, and place for the hearing by certified mail, return receipt requested, email, personal delivery, or other effective method of notice. The notice shall specify a hearing date.

The hearing notice shall also include the alleged violation, the investigator's recommended findings and conclusions, and advise the parties of their right to:

1. A live hearing.
2. Be accompanied at the hearing by a Title IX Advisor, who may or may not be an attorney, whose role as a Title IX Advisor in the hearing is limited, as provided herein [**Refer to Hearing Title IX Advisors, herein**].
3. If a party does not have a Title IX Advisor, select from a pool of trained Title IX Advisors provided by the College District [**See Appointment of Title IX Advisor Form, DIAA Exhibit: DIAA Exhibit**].
4. Have their Title IX Advisor question the other party and any witnesses. Neither the complainant nor the respondent may personally question, including for the purpose of cross examination, the other party or a witness during the hearing. [**Refer to Hearing Title IX Advisors and Questioning, herein**].
5. Present evidence, including requesting the participation of witnesses. [**See Hearing Witnesses, herein**] (the parties shall be advised that lesser weight shall be assigned to any evidence submitted at the hearing that was not submitted in the investigation phase of the grievance process, unless the evidence to be submitted was otherwise unavailable during the investigation or is deemed by the Committee or designee to be inculpatory or exculpatory in nature.)
6. Inspect evidence in the Investigative Report.
7. In the case of a minor, have a parent or legal guardian present at the hearing.
8. Know the identity of each witness who will testify.
9. Know the identity of the Hearing Officer and Decision-maker.
10. Choose not to testify.

[**See Hearing Notice, DIAA Exhibit**].

The parties, their Title IX Advisors, and all other participants to the hearing shall be subject to all applicable College District policies and procedures, including but not limited to, those relating to standards of conduct.

### **Hearing Decision-Maker and Hearing Officer**

The Committee or designee shall appoint a qualified Decision-maker, on a rotating basis or based on availability, from a pool of trained College District administrators, including members of the Committee. The Committee or designee shall also appoint a qualified Hearing Officer, including approved vendors of the College, to preside over the hearing. The name and contact information of the Hearing Officer and Decision-maker shall be shared with the parties at least two (2) business days prior the commencement of the hearing. **[See Appointment of Hearing Officer and Decision-Maker Form, DIAA Exhibit].**

The appointments of the Hearing Officer and Decision-maker by the Committee or designee are final unless a party timely objects in writing, as required herein **[Refer to Conflicts of Interest/Bias herein; See Appointment of Hearing Officer and Decision-Maker Form, DIAA Exhibit].**

The Decision-maker shall objectively and independently evaluate the weight and credibility of relevant evidence and make a determination of responsibility. Independently or with the assistance of the Hearing Officer, the Decision-maker shall have the right to: (i) ask questions and elicit information from the parties and witnesses, to aid the Decision-maker in obtaining relevant evidence;(ii) determine relevancy of evidence; (iii) make the final determination of the weight and credibility to be given to the evidence; and (iv) make the determination on responsibility. The Decision-maker also has discretion to consider the recommendations of the Hearing Officer, during the hearing and on the determination of responsibility.

At the discretion of the Decision-maker, the Hearing Officer may preside over the hearing and assist the Decision-maker as needed. Some examples of the Hearing Officer's role are to do the following: (i) set reasonable time limitations on the hearing, including, but not limited to, timeframes for opening/closing statements; (ii) objectively rule on the admissibility of evidence; (iii) make determinations of relevancy; (iv) rule on objections to procedure; (v) request the participation of witnesses; (vi) require the production of documentary and other evidence; (vii) ensure the parties maintain professional decorum during the hearing; (viii) ask questions and elicit information from the parties and witnesses; (ix) aid the Decision-maker in obtaining relevant evidence; and (x) recommend a determination of responsibility to the Decision-maker. The Hearing Officer shall submit his or her brief, written recommended determination of responsibility to the Decision-maker by no later than two (2) business days after the hearing and deliver such recommendation by email, hand-delivery or other effective means.

### **Hearing Title IX Advisors**

At the hearing, each party's Title IX Advisor shall have the opportunity to question the other party and any witness in real time. Otherwise, the role of the Title IX Advisor shall be limited to observation.

A party who intends to have a Title IX Advisor of choice present at the hearing (outside of the pool provided by the College District) shall provide, on the College District's required Hearing Disclosures form, the name and contact information of the party's designated Title IX Advisor to the Committee or designee by noon at least three (3) business days before the commencement of the hearing **[See Hearing Disclosures Form, DIAA Exhibit].**

If a party does not have a Title IX Advisor of choice, the party may, at no cost to the party, select a Title IX Advisor from a pool of trained Title IX Advisors provided by the College District for the purpose of asking questions of the other party and any witness only during the hearing. The pool of Title IX Advisors shall be composed of College District employees who have received training on the College District's policies and procedures relating to sexual misconduct and the purpose and scope of cross-examination. The College District shall not provide a party with a professional Title IX Advisor (i.e., an attorney or similarly qualified advocate) for the purpose of questioning a party or witness or for any other purpose provided herein. If a Title IX Advisor provided by the College District is so qualified, such qualifications shall be incidental to the individual's position within the College District and their role as a Title IX Advisor and shall have no effect on the Title IX Advisor's role in the hearing or the limitations thereto.

A party who does not have a Title IX Advisor of choice and who chooses to use a College District-provided Title IX Advisor must select a Title IX Advisor from the list of qualified College District Title IX Advisors ("pool") and submit that selection to the Committee or designee at least five (5) business days before the hearing. If a party does not timely submit the party's selected Title IX Advisor to the Committee within the provided timeframe, the Committee or designee will select, in its sole discretion, a Title IX Advisor from the pool to conduct cross-examination on behalf of that party, by no later than close of business, three (3) business days in advance of the hearing date.

The appointments of hearing Title IX Advisor(s) by the Committee or designee are final unless a party timely objects in writing, as required herein. **[Refer to Conflict of Interest/Bias, herein; See Appointment of Title IX Advisor Form: DIAA Exhibit, DIAA Exhibit].**

If a party appears at the hearing without a Title IX Advisor of choice or a College District-provided Title IX Advisor, the hearing may be temporarily delayed to allow the Committee or designee time to assign a Title IX Advisor. In such cases, the Committee or designee will assign the first available Title IX Advisor.

### **Conflict of Interest/Bias**

The College District will endeavor to ensure against conflicts of interest and bias in the assignment of the Hearing Officer, Decision-maker, and Title IX Advisor. The assigned Hearing Officer, Decision-Maker and Title IX Advisors shall complete and sign the College District's required Conflict of Interest/Bias form and submit it to the Committee or designee within one (1) business day of the appointment. **[See Conflict of Interest/Bias form.** The Committee or designee shall promptly provide a copy of the completed Conflict of Interest/Bias form to the parties.

The complainant and respondent may challenge the participation of an appointed Hearing Officer or Decision-maker based on conflict of interest or bias. A challenge to the appointment of a Hearing Officer or Decision-maker must be submitted in writing to the Committee or designee, at least five (5) business days before the commencement of the hearing, on the College District's required form, to include the factual basis of the challenge **[See Conflict of Interest/Bias form]**. Untimely requests will be dismissed. If the appointed Hearing Officer or Decision-maker is a member of the Committee, conflict of interest or bias will be determined by the College District President or designee. The fact that a Hearing Officer or Decision-maker is not a professional (i.e., an attorney or an experienced Hearing Officer or Decision-maker) shall not qualify as good cause. If it is determined that a conflict of interest or bias exists, a new appointment will be made.

A complainant or a respondent may challenge the participation of an appointed Title IX Advisor based on conflict of interest or bias. A challenge to the appointment of a Title IX Advisor must be submitted in writing to the Committee or designee, at least two (2) business days before the commencement of the hearing, on the College District's required form, to include the factual basis of the challenge **[See Conflict of Interest/Bias form, DIAA Exhibit]**. Untimely requests will be dismissed. If the appointed Title IX Advisor is a member of the Committee, conflict of interest or bias will be determined by the College District President or designee. The fact that a Title IX Advisor is not a professional (i.e., an attorney or an experienced Hearing Officer or Decision-maker) shall not qualify as conflict of interest or bias. If it is determined that a conflict of interest or bias exists, a new Title IX Advisor will be appointed.

Whether a conflict of interest or bias exists will be determined according to what a reasonable person would conclude constitutes a conflict of interest or bias. The determination cannot rely solely on an individual's academic or employment background. Rather, the determination must be based on the objective facts of the particular situation.

The decision as to whether good cause exists, and whether to appoint another Hearing officer, Decision-maker or Title IX Advisor, will be shared with the parties in writing and is final.

### **Hearing Disclosures**

No later than noon, at least three (3) business days before the commencement of the hearing, each party to the hearing shall provide the following information to the Committee or designee, on the required form provided by the College District **[See Hearing Disclosures form, DIAA Exhibit]**:

1. The name and contact information of each witness to appear on behalf of the party and a short description of the nature of their testimony.
2. The name and contact information of the party's Title IX Advisor of choice, if any, who shall appear at the hearing.
3. If a party is a minor, the name and contact information of the parent or guardian who will accompany the party. If a party's parent or guardian will also serve as the party's Title IX Advisor, please indicate as such in the disclosure.
4. If applicable, any request for accommodations and the nature of the accommodation required.

5. If a party misses the deadline for submitting the Hearing Disclosure form, the Hearing Officer and/or Decision-maker may prohibit that party from calling any witnesses, other than the party, absent the party's showing of good cause. The Decision-maker's determination on good cause is final.
6. The Committee or designee shall promptly provide each party's completed hearing disclosure form to the Hearing Officer, Decision-maker, and opposing party on the date of receipt.

### **Hearing Witnesses**

The respondent and the complainant each may identify and request witnesses to testify at the hearing. The parties' notice of intent to offer witness(es) must be included in the hearing disclosure form and submitted to the Committee no later than noon at least three (3) business days before the commencement of the hearing. **[See Hearing Disclosures form, DIIA Exhibit].**

Such notice must include the name and contact information for each witness and a short description of the nature of their testimony. The names of the witnesses, and all other disclosures, which are submitted to the Committee will be shared with the other party, the Hearing officer and Decision-maker at least three (3) business days before the commencement of the hearing. The Hearing Officer and/or Decision-maker, at the Decision-maker's discretion, may exclude a witness's testimony if the information the witness intends to provide is deemed to be irrelevant. The decision to exclude a witness's testimony and the reason for such exclusion shall be shared with the parties in writing **[Refer to Determinations of Relevance, herein].**

### **Attendance**

All parties to a formal complaint are expected to timely appear at the commencement of the scheduled hearing and to submit to cross examination if their prior statements are to be considered by the Decision-maker **[Refer to Questioning, herein]**. A party may request not to be present in the same room as another party during the hearing. If such a request is made, it must be made in writing to the Committee or designee no later than five days before the commencement of the hearing. The Committee or designee will make the necessary accommodations/arrangements, including providing access to audiovisual services, to conduct the hearing in accordance with this procedure.

### **Hearing Procedure**

The Hearing Officer shall preside over the hearing in order to assist the Decision-maker, who shall be responsible for making all decisions at the hearing. The Hearing Officer's role is subordinate to that of the Decision-maker and provides delineated services, only as authorized by the Decision-maker **[Refer to Hearing Decision-maker and Hearing Officer, herein]**.

The hearing shall proceed generally, as follows:

1. Persons present shall be the Hearing Officer, Decision-maker, the complainant, the respondent, the Title IX Advisor(s) for the parties, and, if applicable, the parents or guardians of the parties (if a party is a minor). If requested by the Decision-maker, the College District's counsel may also be present, but shall not actively participate in the hearing. The College District's counsel's participation shall be limited to providing guidance to the Decision-maker, if requested, on such matters as policy, procedure and applicable law. The Decision-maker cannot simply defer to the District counsel when the Decision-maker has a question or concern, but instead must make a final independent decision.
2. Witnesses shall remain outside the hearing "room" until they are called to testify. The Investigator may be called as a witness.
3. The Hearing Officer or Decision-maker, at the Decision-maker's discretion, shall make introductions followed by (in this order):
  - a. Respondent's statement, accepting or denying responsibility for the allegation contained in the formal complaint. This statement shall be limited to one (1) minute and may only be made by the party respondent, not a Title IX Advisor.
  - b. Complainant(s) and respondent(s)' opening statements. Each party shall have up to five (5) minutes for their opening statement. The opening statement may only be made by the party, not a Title IX Advisor. The Hearing Officer or Decision-maker, at the Decision-maker's discretion, may modify the time limit

for opening statements, as long as both parties are afforded the same amount of time. Either party may waive the opening statement.

- c. Questioning of the parties and witnesses: The Hearing Officer, or the Decision-maker, at the Decision-maker's discretion, will be the first to ask questions of the parties and witnesses, and may ask questions at any time during the hearing [**Refer to Questioning, herein.**]
- d. Cross-examination of the parties and witnesses, if any, by the parties' Title IX Advisors: Each party's Title IX Advisors may cross-examine the other party and witnesses in accordance with this Procedure [**Refer to Questioning, herein.**]. The Hearing Officer or Decision-maker, at the Decision-maker's discretion, may excuse each witness once the witness's testimony is complete.

Closing Statements: Each party shall have up to five (5) minutes for their closing statement. The closing statement may only be made by the party, not a Title IX Advisor. The Hearing Officer or Decision-maker, at the Decision-maker's discretion, may modify the time limit for closing statements, as long as both parties are afforded the same amount of time. Either party may waive the closing statement. If the complainant chooses to give a closing statement, the complainant's closing statement will be first. If the respondent chooses to give a closing statement, the respondent's closing statement will be second.

Submission of exhibits/supporting documents: The Hearing Officer or Decision-maker, at the Decision-maker's discretion, shall admit all relevant evidence included in: (i) the Hearing Notice; (ii) the completed Investigative Report and all evidence provided with it; and (iii) all relevant evidence that is offered by the parties or is necessary for fair adjudication of the dispute.

The Hearing Officer or Decision-maker, at the Decision-maker's discretion, shall conclude the hearing and excuse the parties and witnesses.

### **Questioning**

The Hearing Officer, or Decision-maker, at the Decision-maker's discretion, shall be the first to question the parties and any witnesses at the hearing to elicit from the participants relevant evidence with which to make a determination regarding responsibility.

Each party's Title IX Advisor will then have the opportunity to ask all relevant questions, including follow-up questions, of the other party and witnesses, if any, including relevant questions that challenge credibility. Cross-examination of a party or witness at the hearing shall be conducted in real time, by a party's Title IX Advisor of choice or a party's College District-provided Title IX Advisor only. Only the parties' Title IX Advisors, and not the complainant nor the respondent, may personally question the other party or any witnesses during the hearing.

All questioning shall be conducted in accordance with the College District's established standards of conduct. Accordingly, parties and their Title IX Advisors should endeavor to ensure that questions asked are relevant and respectful of all hearing participants. Badgering a witness, yelling, using abusive language, unprofessional conduct, or engaging in acts of intimidation, are prohibited during cross-examination or at any other time during the hearing.

### **Determinations of Relevance**

The Department states: "The final regulations do not define relevance, and the ordinary meaning of the word should be understood and applied."

The Hearing Officer, at the discretion of, and approval by, the Decision-maker, shall determine before a party or witness answers a question, or admits other information into evidence, whether the information is relevant to the allegations that are the subject of the formal complaint and briefly explain in real time any decision to exclude a question as not relevant. If a question or evidence is determined by the Hearing Officer and/or the Decision-maker to be relevant, the participant will answer it.

In addition, there is information that shall automatically be deemed irrelevant, as provided by law and Policy DIIAA [**See, e.g., Policy DIIAA**]. For example, the Title IX Rule deems certain evidence and information to be not relevant or otherwise precludes the recipient from using it: (i) a party's treatment records, without the party's prior written consent [§ 106.45(b)(5)(i)]; (ii) information protected by a legally recognized privilege [§ 106.45(b)(1)(x)]; and (iii) questions or evidence about a complainant's sexual predisposition, and questions or evidence about a complainant's prior sexual behavior unless it meets one of two limited exceptions [§ 106.45(b)(6)(i)-(ii)].

The Hearing Officer, at the discretion of the Decision-maker, in making a determination of relevance, may evaluate, as appropriate, whether the information offered bears on a fact at issue in the complaint or is duplicative. Information

that the Decision-maker determines is not probative of any material fact concerning the allegations, or which is determined to be repetitious of the same question, may be deemed to be irrelevant and excluded from the hearing.

Questions or information concerning a party's character or prior bad acts shall not be admissible under this procedure unless they are deemed relevant by the Decision-maker. If the Decision-maker deems that the character or prior bad acts of any party are relevant, the Decision-maker must apply the same relevance to the character or prior bad acts of the other party.

Where any evidence is determined to be relevant, the Decision-maker shall objectively evaluate the relevant evidence to determine whether such evidence warrants a high or low level of weight or credibility.

Upon making a determination of relevance, the Decision-maker's decision is final. However, parties may appeal an erroneous relevance determination, provided the determination affected the outcome of the matter. **[See Appeals]**

### **Recording/Electronic Devices**

The College District strictly prohibits the recording, transcription, or distribution of a recording or transcription, of the hearing by a party, witness, Title IX Advisor, or any other participant. The College District will arrange for transcription or audio or audiovisual recording of the hearing proceeding, which it will make available to the parties after the hearing and keep on file as part of the proceeding record, in accordance with the College District's record retention procedures. The College District's recording, audiovisual recording, and/or transcription, shall be the official recording, audiovisual and/or transcription of the hearing.

Reasonable care will be taken to create a quality audio or audiovisual recording; however, the lack of a quality audio, audiovisual recording, or transcription, or the presence of technical problems that result in no audio, audiovisual recording or transcription, will not be deemed a valid reason for appeal.

### **Proceeding Record**

The College District's proceeding record shall include: (i) a copy of the notice of the hearing; (ii) all documentary and other evidence offered or admitted in evidence, including the preliminary and completed Investigation Reports; (iii) a copy of the hearing recording, audiovisual recording and/or transcript; (iv) the Decision-maker's determination regarding responsibility; (v) an appeal by either party; (vi) disciplinary sanctions imposed on the respondent, or proposed to be imposed on the respondent, if any; and (vii) a list of remedies provided to the complainant, if any. The proceeding record will be kept on file for seven years in accordance with the College District's record retention procedures **[See Policy CIA]**.

### **Notice of Determination of Responsibility**

The Hearing Officer shall, at the Decision-maker's discretion, provide to the Decision-maker, recommended findings as to each allegation of sexual misconduct included in the complaint. The Decision-maker may, at his or her discretion, consider such recommendation.

The Decision-maker shall make and issue a written determination of responsibility, based on the evidence presented. The determination of responsibility shall include the following: (i) a description of the procedural steps taken from receipt of the complaint to determination of responsibility; (ii) a statement of, and rationale for, the result as to each individual allegation of sexual misconduct included in the complaint, including findings of fact supporting the determination; conclusions regarding the application of the College District policies and procedures, and the evidentiary basis for such conclusions; (iii) any disciplinary action or corrective action to be imposed on the respondent in accordance with Policy DIAA **[See Policy DIAA]**; (iv) whether any remedies are to be provided to the complainant; and (v) procedures and permissible bases for appeal.

The Decision-maker shall submit the determination of responsibility to the Title IX Committee or designee, who shall notify each party to the hearing of the determination in the same manner as the notice of hearing, at approximately the same time, no more than five (5) business days following the hearing. In a case involving a minor student, who is also enrolled as a dual credit or early college high school student, a determination of responsibility will also be shared with the student's high school. Determinations of responsibility shall become final after expiration of the time period to file an appeal, or if a party does appeal, after notice of the appeal decision is sent to the parties.

### **Appeal**

The Committee or designee shall inform the parties in writing of the determination and a dissatisfied party's right to appeal the determination, in accordance with Policy DIAA **[See Policy DIAA]**.







## HEARING TITLE IX ADVISORS AND QUESTIONING

Title IX processes in the higher education setting are not formal civil or criminal proceedings. Institutions may provide reasonable rules of order and decorum to facilitate these processes, and such rules may be enforced through the removal of Advisors who refuse to comply with the rules, by postponements, and by the accountability of parties and witnesses to applicable codes of conduct. These rules and standards apply equally to all parties, their Advisors, and witnesses.

### **Decorum Expectations for Advisors During Investigation Interviews**

- Advisors are present during interviews primarily to assist the party being interviewed. The interviewed party is responsible for presenting their own information. Advisors are not typically permitted to speak for a party and do not have an active role during any meetings or interviews except to advise their advisee.
- Students are required to sign a privacy release form that permits their Advisor to have copies of their student records pertinent to the complaint.
- Advisors are required to sign the El Paso Community College non-disclosure agreement before any information can be shared with them regarding the complaint.
- Advisors may not act abusively or disrespectfully toward the investigator(s) during the interview process. The advisor may not yell, scream, badger, or physically invade an investigator's personal space.
- An Advisor may be removed or replaced if their presence is disruptive, obstructive, or unreasonably interferes with the El Paso Community College's ability to address the complaint. In such a case, the Complainant or Respondent may seek another Advisor, including one provided by El Paso Community College.
- Advisors may take no action during the interview that a reasonable person would view as intended to intimidate a party, witness, or official into not participating in the process or meaningfully modifying their participation in the process. This behavior may also be a form of retaliation.

### **Decorum Expectations for Participants for In-Person Hearings**

- To avoid disruption to the hearing, participants should not leave the room or the online meeting during hearing proceedings except during breaks. Breaks will be reasonably granted when requested.
- Cell phones should be turned to the "OFF" setting during proceedings unless the Hearing Officer grants permission for the use of a phone.
- The El Paso Community College will record proceedings and make available investigation interview and hearing recordings or transcripts. Title IX Coordinator does not permit any other

participant to record (including audio and/or video) any meeting, interview, or hearing without express written permission of the Title IX Coordinator.

#### **Decorum Expectations for the Parties During the Hearing**

- No party will address the other for any reason unless given express permission by the Hearing Officer.
- During cross-examination, only a party's Advisor or the Hearing Officer or Decision Maker may speak to or address the other party or witnesses.
- No party or witness will interrupt the proceedings with applause, heckling, outbursts, or other disruptive behavior.
- Any threat of violence expressly made by any party will be immediately reported by the Hearing Officer or Decision Maker to the appropriate office for review and/or to law enforcement.
- A party may be held accountable under the code of conduct for condoning, facilitating, and/or tacitly permitting misconduct by their Advisor, any witness, or other party.
- No participant may act abusively or disrespectfully during the hearing toward any other party or to witnesses, Advisors, or the Hearing Officer.

#### **Decorum Expectations for Advisors During the Hearing**

- No Advisor may act abusively or disrespectfully during the hearing toward any other party or to witnesses, Advisors, or the Hearing Officer.
  - The Advisor may not yell, scream, badger, or physically invade a party, witness, or the Hearing Officer's personal space.
- Advisors may not approach the other party or witnesses without obtaining permission from the Hearing Officer and should remain seated.
- The Advisor may not use profanity or make irrelevant ad hominem attacks upon a party or witness.
  - Questions are meant to be interrogative statements used to test knowledge or understand a fact; they may not include accusations within the text of the question.
- The Advisor may not ask repetitive questions or questions that will elicit an answer that is repetitive. This includes questions that have already been asked by the Hearing Officer or an Advisor during cross-examination.
  - When the Hearing Officer determines that a question is duplicative or is otherwise not relevant, the Advisor must move on to another question.
- Advisors may take no action during the hearing that a reasonable person would view as intended to intimidate a party, witness, or El Paso Community College official into not participating in the process or meaningfully modifying their participation in the process. This behavior may also be a form of retaliation.

### **Warning and Removal Process During Interviews**

- During investigation interviews, the assigned investigator(s) has/have the sole discretion to determine if the Advisor has violated the Decorum Expectations for Advisors During Investigation Interviews set forth above.
- The investigator(s) has/have the discretion to remove the offending Advisor from the interview or permit them to stay, provided they follow the Decorum Expectations after a warning.
- When an investigator removes a party's Advisor, the party may select a different Advisor of their choice, including one provided by El Paso Community College, or may choose to proceed without an Advisor during the interview.
- Reasonable delays, including the temporary adjournment of the interview, may be anticipated should an Advisor be removed.
- A party is not required to have an Advisor during an investigation interview.

### **Warning and Removal Process During the Hearing**

- The Hearing Officer has the sole discretion to determine if the Decorum Expectations concerning hearings have been violated.
- The Hearing Officer will notify the offending person of any violation and has the discretion to remove the offending person or may allow them to continue participating in the hearing or another part of the process after a warning.
- When the Hearing Officer removes a party's Advisor, the party may select a different Advisor of their choice, or accept an Advisor provided by the El Paso Community College.
- Reasonable delays, including the temporary adjournment of the hearing, may be anticipated should an Advisor be removed.
- A party cannot serve as their own Advisor in this circumstance.
- The Hearing Officer shall document any decision to remove an Advisor in the written determination regarding responsibility.

### **Relevant Questions Asked in Violation of the Rules of Decorum**

- When an Advisor asks a relevant question in a manner that violates the Rules, such as yelling, screaming, badgering, or invading the witness' or party's personal space, the question will be deemed not relevant by the Decision Maker because it is abusive.
- Under that circumstance, the Hearing Officer will notify the Advisor of the violation of the Rules, and, if the question is relevant, will allow the Advisor (or by a replacement Advisor, should the Advisor be removed for violation of the Rules) to re-ask the question in a respectful, non-abusive manner.

### **Authority to Prohibit Future Participation**

For flagrant, multiple, or continual violations of these Rules, in one or more proceedings, Advisors may be prohibited from participating in the Advisor role on a temporary or permanent basis in future

proceedings at the El Paso Community College as determined by the Title IX Coordinator or their designee.

**El Paso Community College**  
9050 Viscount  
El Paso, TX 79925  
(915) 831-6631



## HEARING -TITLE IX WITNESS DISCLOSURE -EMPLOYEES

Name of Witness: \_\_\_\_\_

Job Title: \_\_\_\_\_

I understand that as an individual providing information as a witness in a Title IX investigation, I am entitled to certain rights as enumerated below:

- I am entitled to be free from retaliation as a result of my participation. This includes any physical, written, verbal, or academic and/or employment-related retaliation, including through the Internet and/or on social networking sites. Any behavior perceived by me to be retaliatory based on my participation in this investigation should be immediately reported to the El Paso Community College TIX Coordinator, Malena Field, Interim AVP, Human Resource Management & Compliance, by telephone at (915) 831-6458, or by email at mfield5@epcc.edu.
  
- EMPLOYEES AND THIRD PARTIES: All records created that include personally identifiable information about me will be kept as private as possible. Additionally, I recognize that:
  - I am entitled to review all material created for this investigation that identifies me (subject to a reasonable period for redaction of others' protected information).
  - Information related to my witness interview will only be provided to the Complainant and the Respondent and their respective Advisors, and to any El Paso Community College officials who have a legitimate need to know this information.
  - The Title IX Coordinator's typical practice is to release information related to me and containing my identity (or reasonably linked to my identity) only in redacted form so that neither my name nor information identifying me will be revealed.
  
- I will be provided an opportunity to ask the Investigator(s) questions about my privacy rights and any other issues of concern that arise related to providing witness information.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name



**Sex or Gender-based Discrimination, Violence, or Harassment Investigation and Resolution Advisor Designation of Information Form**

**Contact Information**

**Name:** \_\_\_\_\_ **[Institution ID]:** \_\_\_\_\_

**E-mail:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Role of the Advisor**

In compliance with federal law, the DIIA – 1 affords Complainants and Respondents involved in the El Paso Community College Title IX complaint process the right to an Advisor of their choice. The term Advisor refers to any individual selected by a Complainant or Respondent to provide advice and/or support for that individual during a sex or gender-based discrimination, violence, or harassment investigation, informal resolution, or formal hearing process. In the event of a formal hearing, the Advisor will also be responsible for conducting cross-examination on behalf of their advisee.

Except for cross-examination during a formal hearing, all El Paso Community College employees are expected to communicate for themselves throughout any El Paso Community College investigation and resolution process. Therefore, except in the cross-examination context, an Advisor may not communicate for an employee or address any other individual during a sex or gender-based discrimination, violence, or harassment investigation, informal resolution, or formal hearing process without authorization from the appropriate El Paso Community College authority. An employee may consult with their designated Advisor, verbally or in writing, at any time during a sex or gender-based discrimination, violence, or harassment investigation, informal resolution, or formal hearing process, subject to applicable procedural rules and decorum expectations. If the El Paso Community College representative determines that an Advisor’s presence is causing a disruption, the Advisor will be given a verbal warning. If the Advisor continues to cause a disruption after a verbal warning has been given, the Advisor will be asked to leave the meeting.

**[Employees are limited to one (1) designated advisor of record.]**

**Advisor Information**

**Name:** \_\_\_\_\_ **Relationship:** \_\_\_\_\_

**E-mail:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

***If the individual designated as an Advisor is an attorney, this release extends to the other attorneys in their practice, if necessary, to proceed with the El Paso Community College process in a timely manner unless otherwise noted.***

### Advisor Scheduling Contact

If designated below, an Advisor may identify an individual that can speak on their behalf for the purpose of scheduling appointments with the relevant El Paso Community College representative; however, this individual may not speak on behalf of the student representative.

**Name:** \_\_\_\_\_ **Relationship:** \_\_\_\_\_

**E-mail:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

### Scope of Release

This release of information permits the El Paso Community College to communicate with the designated Advisor regarding the investigation and resolution of reported sex or gender-based discrimination, violence, or harassment, including relevant prior conduct history, involving the student identified on this form. It is preferred that all communication also include the student; however, an El Paso Community College representative may communicate with an Advisor individually with permission from the student.

### Employee Responsibilities and Consent for Disclosure

I understand that:

- if I select an Advisor that was not provided by the El Paso Community College, that individual may not be trained in the sex or gender-based discrimination, violence, or harassment investigation, informal resolution, or formal hearing process;
- it is my responsibility to share information regarding the sex or gender-based discrimination, violence, or harassment investigation, informal resolution, or formal hearing process and the role of the Advisor with my Advisor;
- except for conducting cross-examination during a formal hearing, my Advisor cannot communicate for me unless authorized to do so by a El Paso Community College representative, and I should not assume that such authorization will be given;
- if my Advisor does not adhere to their defined role, the Advisor may be removed from any meetings or hearings with El Paso Community College staff;
- I may revoke this consent, in writing, at any time except to the extent that action has already been taken upon this release;
- I will not be contacted after an inquiry is made or information is released to the individual(s) listed under the Advisor Information section of this form; and
- this release will be considered valid and effective throughout the entire sex or gender-based discrimination, violence, or harassment investigation, informal resolution, and/or formal hearing process, if applicable, unless I revoke my consent to release information or designate another Advisor.

By signing below, I am voluntarily giving my consent to the El Paso Community College Employee Relations Department to disclose the information indicated above to the individual listed in the Advisor Information section of this form. This consent shall be valid for one (1) calendar year from the date below.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



## Sex or Gender-based Discrimination, Violence, or Harassment Investigation and Resolution Advisor Designation and FERPA of Information Form

### Contact Information

Name: \_\_\_\_\_ [Institution ID]: \_\_\_\_\_

E-mail: \_\_\_\_\_ Phone: \_\_\_\_\_

### Family Educational Rights and Privacy Act (FERPA)

The 1974 Family Educational Rights and Privacy Act is a federal law (20 U.S.C. 1232g) that protects the privacy of a student's education records. FERPA applies to all educational institutions receiving funds from the U.S. Department of Education, including El Paso Community College. Under FERPA, the Title IX Coordinator for Students, may not share the contents of a student's file with anyone other than the student unless the student provides written consent to do so, or under a recognized exception. Exceptions to FERPA include, but are not limited to, a health or safety emergency or an educational need to know.

### Role of the Advisor

In compliance with federal law, the FDDA – 1 affords Complainants and Respondents involved in the El Paso Community College Title IX complaint process the right to an Advisor of their choice. The term Advisor refers to any individual selected by a Complainant or Respondent to provide advice and/or support for that individual during a sex or gender-based discrimination, violence, or harassment investigation, informal resolution, or formal hearing process. In the event of a formal hearing, the Advisor will also be responsible for conducting cross-examination on behalf of their advisee.

Except for cross-examination during a formal hearing, all El Paso Community College students are expected to communicate for themselves throughout any El Paso Community College investigation and resolution process. Therefore, except in the cross-examination context, an Advisor may not communicate for a student or address any other individual during a sex or gender-based discrimination, violence, or harassment investigation, informal resolution, or formal hearing process without authorization from the appropriate El Paso Community College authority. A student may consult with their designated Advisor, verbally or in writing, at any time during a sex or gender-based discrimination, violence, or harassment investigation, informal resolution, or formal hearing process, subject to applicable procedural rules and decorum expectations. If the El Paso Community College representative determines that an Advisor's presence is causing a disruption, the Advisor will be given a verbal warning. If the Advisor continues to cause a disruption after a verbal warning has been given, the Advisor will be asked to leave the meeting.

**[Students are limited to one (1) designated advisor of record.]**

### Advisor Information

Name: \_\_\_\_\_ Relationship: \_\_\_\_\_



\_\_\_\_\_

E-mail: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

***If the individual designated as an Advisor is an attorney, this release extends to the other attorneys in their practice, if necessary, to proceed with the El Paso Community College process in a timely manner unless otherwise noted.***

### **Advisor Scheduling Contact**

If designated below, an Advisor may identify an individual that can speak on their behalf for the purpose of scheduling appointments with the relevant El Paso Community College representative; however, this individual may not speak on behalf of the student representative.

Name: \_\_\_\_\_

Relationship: \_\_\_\_\_

E-mail: \_\_\_\_\_

Phone: \_\_\_\_\_

### **Scope of Release**

This release of information permits the El Paso Community College to communicate with the designated Advisor regarding the investigation and resolution of reported sex or gender-based discrimination, violence, or harassment, including relevant prior conduct history, involving the student identified on this form. It is preferred that all communication also include the student; however, a El Paso Community College representative may communicate with an Advisor individually with permission from the student.

### **Student Responsibilities and Consent for Disclosure**

I understand that:

- if I select an Advisor that was not provided by the El Paso Community College, that individual may not be trained in the sex or gender-based discrimination, violence, or harassment investigation, informal resolution, or formal hearing process;
- it is my responsibility to share information regarding the sex or gender-based discrimination, violence, or harassment investigation, informal resolution, or formal hearing process and the role of the Advisor with my Advisor;
- except for conducting cross-examination during a formal hearing, my Advisor cannot communicate for me unless authorized to do so by a El Paso Community College representative, and I should not assume that such authorization will be given;
- if my Advisor does not adhere to their defined role, the Advisor may be removed from any meetings or hearings with El Paso Community College staff;
- I may revoke this consent, in writing, at any time except to the extent that action has already been taken upon this release;
- I will not be contacted after an inquiry is made or information is released to the individual(s) listed under the Advisor Information section of this form; and
- this release will be considered valid and effective throughout the entire sex or gender-based discrimination, violence, or harassment investigation, informal resolution, and/or formal hearing process, if applicable, unless I revoke my consent to release information or designate another Advisor.

By signing below, I am voluntarily giving my consent to the El Paso Community College Title IX Coordinator for Students, to disclose the information indicated above to the individual listed in the Advisor Information section of this form. This consent shall be valid for one (1) calendar year from the date below.

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Signature \_\_\_\_\_ Date \_\_\_\_\_



## WITNESS RIGHTS DISCLOSURE - STUDENTS

I understand that as an individual providing information as a witness in a Title IX investigation, I am entitled to certain rights as enumerated below:

- I am entitled to be free from retaliation as a result of my participation. This includes any physical, written, verbal, or academic and/or employment-related retaliation, including through the Internet and/or on social networking sites. Any behavior perceived by me to be retaliatory based on my participation in this investigation should be immediately reported to the El Paso Community College TIX Coordinator, Dr. Carlos Amaya, Vice President of Student & Enrollment Services, by telephone at (915) 831-2640, or at [camaya3@epcc.edu](mailto:camaya3@epcc.edu).
- All records created that include personally identifiable information about me are protected by the federal Family Educational Rights and Privacy Act (FERPA). This means:
  - I am entitled to review all material created for this investigation that identifies me and directly relates to me (subject to a reasonable period for redaction of others' protected information).
  - Information related to my witness interview will only be accessible to the Complainant and the Respondent and their respective Advisors, and to any El Paso Community College officials who have a legitimate need to know this information.
  - Unless an exception is met, release of information related to me and containing my identity (or reasonably linked to my identity) to individuals, other than those listed above, will be redacted so that neither my name nor information identifying me will be revealed.
- I will be provided an opportunity to ask the Investigator(s) questions about my privacy rights and any other issues of concern that arise related to providing witness information.

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Signature

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Date

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Printed Name