

Policy Scope

This policy is applicable to both student and employees of Vista College (“College”) and covers allegations against students and employees of the College, as well as allegations against visitors, contractors, applicants for admission to the College, and applicants for employment with the College. This policy outlines the process the College will use to resolve complaints of sexual harassment. It includes definitions, identifies the Title IX positions, and outlines the process filing a Formal Complaint, investigations, and hearings. After the process outlined below is complete, if it is determined that a complaint or Formal Complaint does not constitute a Title IX violation, the College maintains the right to further action based upon the Code of Conduct outlined in the applicable College catalog, or the rules defined in the Employee Handbook.

The College’s policy provides an educational and working environment for its students and staff that is free from sexual harassment. The College will not tolerate sexual harassment, and individuals who engage in such conduct will be subject to disciplinary action. Any student who believes that he or she has been subjected to sexual harassment misconduct by another student, a member of the faculty or staff, or a campus visitor or contractor, is encouraged to file a complaint immediately, as outlined below.

Definitions

Sexual Harassment

Conduct on the basis of sex that satisfies one or more of the following:

- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectionably offensive that it effectively denies a person equal access to the College’s education program or activity;
- An employee of the school conditioning the provision of an aid, benefit, or service of the College on an individual’s participation in unwelcome sexual conduct; or
- Sexual assault (including fondling, incest, rape, or statutory rape), dating violence, domestic violence, or stalking as those terms are defined in the Violence Against Women Act (VAWA).

Sexual Assault

Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent:

- Fondling - Touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity;
- Incest - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law;
- Rape - Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This definition includes any gender of victim or perpetrator; or
- Statutory rape - Sexual intercourse with a person who is under the legal age of consent.

Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such relationship shall be determined based on the reporting party’s statement with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence

A felony or misdemeanor crime of violence committed:

- By a current or former spouse or intimate partner of the victim;

- By a person with whom the victim shares a child in common;
- By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- By any other person against an adult or youth victim protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or to suffer substantial emotional distress.

Actual Knowledge

Notice of sexual harassment or allegations of sexual harassment made to the College's Title IX Coordinator or a Campus Director.

Formal Complaint

A document filed by a Complainant or signed by the College's Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the recipient investigate the allegation of sexual harassment. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by e-mail and must include all of the required elements outlined below.

Complainant

An individual alleged to be the victim of conduct that could constitute sexual harassment.

Respondent

An individual reported to be the perpetrator of conduct that could constitute sexual harassment.

Supportive Measures

Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no formal complaint has been filed.

Education Program or Activity

Refers to locations, events, or circumstances where the College exercises substantial control over the person or persons accused of committing Sexual Harassment.

Employee

Any individual employed by the College, including adjunct instructors

Student

Any individual currently enrolled in one or more courses offered by the College, including externship or clinical.

Reporting Responsibility

Any employee with knowledge of sexual harassment of any nature involving a student or employee of the College and involving a College educational program or activity must notify the Title IX Coordinator. If a College employee is concerned about the conduct of a particular student or employee, but no specific allegation has been made, such concerns may be forwarded to the appropriate Title IX Coordinator for consideration.

Title IX Positions

In the event of a Title IX investigation, pre-designated and trained employees fulfill specific roles.

Title IX Coordinator

The persons with authority to oversee the grievance process and ensure that equitable, non-biased treatment of all

parties. The Title IX Coordinator must not have a conflict of interest or bias toward either the Complainant or the Respondent.

The Title IX Coordinator for Students will guide complaints of sexual harassment involving only students (student on student).

The Title IX Coordinator for Employees, Visitors, and Contractors will guide complaints of sexual harassment involving non-students.

The Title IX Coordinators are as follows:

Title IX Coordinator for Students (Complaints of sexual harassment involving only students (student on student), will be guided by the College's Title IX Coordinator for Students)

Justin Gobert
Senior Director of Compliance
Education Futures Group, LLC
300 N. Coit Rd, Suite 1400
Richardson, TX 75080
972-733-343, ext. 1712
jgobert@vistacollege.edu

Title IX Coordinator for Employees, Visitors, and Contractors

Sabrina Burreal
Vice President of Human Resources
Education Futures Group, LLC
300 N. Coit Rd, Suite 1400
Richardson, TX 75080
972-733-343, ext. 1723
sburreal@vistacollege.edu

Title IX Investigator

The Title IX Investigators oversee the investigation process, and conduct a prompt and thorough investigation. The Title IX Investigator acts as a neutral party in the investigation and provides a detailed, unbiased report regarding the findings of the investigation.

The Title IX Investigator for Students will investigate complaints of sexual harassment involving only students (student on student).

The Title IX Investigator for Employees, Visitors, and Contractors will investigate complaints of sexual harassment involving non-students.

The Title IX Investigator for Students (Complaints of sexual harassment involving only students (student on student), will be investigated by College's Title IX Investigator for Students)

Lori Erwin
Corporate Director of Financial Aid
Education Futures Group, LLC

The Deputy Title IX Investigator for Employees, Visitors, and Contractors

Teresa Osby
Lead Human Resources Generalist
Education Futures Group, LLC

Title IX Adjudicator (Decision-Maker)

The Title IX Adjudicator is trained to assess evidence and leads the live hearing part of the grievance process. The Adjudicator will make a final written determination of responsibility and resolution measures regarding the Formal Complaint. The Title IX Adjudicator will be unbiased in their decision-making and will not participate in any part of the

investigation.

The Title IX Adjudicator is:

Jody Cohen
Senior Vice President of Compliance
Education Futures Group, LLC

Advisors

The Complainant and the Respondent each have the right to an advisor of their choice during the grievance process. The advisor may be, but is not required to be, an attorney. Advisors are contact and support persons for the Complainant and the Respondent. An advisor will accompany the Complainant or Respondent to hearings and meetings, provide information and updates regarding the process as directed, and communicate any questions, concerns or requests to the Title IX Investigator throughout the process of the investigation. The advisor will also be the party permitted to ask questions of the opposing party and/or their witnesses during the live hearing.

If the Complaint or Respondent does not have someone that they would like to appoint to serve as their advisor, the College will appoint an advisor for them. The College may apply restrictions on how advisors may participate in the investigation and grievance process, but any restrictions will apply equally to each party.

Sexual Assault Response Options

An individual who is the victim of a sexual assault has many actionable options, including:

- Reporting the assault to local law enforcement;
- Getting a medical exam. This will allow for proper collection of physical evidence and is also for one's health to determine if there are any injuries requiring medical assistance, and a check for sexually transmitted diseases or pregnancy;
- Preserving evidence. It is extremely important to preserve any potential physical evidence. The victim should not bathe/shower, use the restroom, change clothes, wash any fabric or sheets which may contain evidence, etc.;
- Consulting professional or crisis counseling services. There is a list of potential resources at the end of this document;
- Pressing criminal charges and participate in the potential prosecution of the perpetrator of the assault; or
- Filing a complaint with the College's Title IX Coordinator if the assault involves a student or employee of the College, or a visitor of contractor of the College.

Sexual Harassment Response Options

Anyone who believes they are the victim of sexual harassment has the option to file a complaint with the College's Title IX Coordinator if the harassment involves a student or employee, visitor, or contractor of the College.

The Formal Complaint Process

Where to Report

A complaint may be filed with the Title IX Coordinator in person, by mail, or by e-mail. Individuals can report sexual harassment at any time, although the College encourages individuals to report such incidents as soon as possible after the date of the alleged incident so immediate action can be taken. The Title IX Coordinator must promptly contact the Complainant confidentially to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a Formal Complaint, and explain to the complainant the process for filing a Formal Complaint.

How to Report

A Formal Complaint is made by the written submission of complete documentation of an alleged sexual harassment

incident(s) to the Title IX Coordinator.

Documentation must include:

- Date(s) and time(s) of the alleged incident(s);
- Location and names of individuals involved in the alleged incident(s);
- Specific details of what happened and resulting effects related to the incident(s);
- Names of any witnesses to alleged incident(s);
- Any action taken following the incident(s);
- A physical or digital signature of the Complainant.

A Formal Complaint may not be filed anonymously. The grievance process requires disclosure of the Complainant's identity to the Respondent.

Insufficient Documentation

If submitted documentation is insufficient, the appropriate Title IX Coordinator may work with the Complainant to update the necessary information.

In a situation where the alleged victim of sexual harassment is unwilling to file a Formal Complaint, the Title IX Coordinator may choose to sign a Formal Complaint and initiate the grievance process if the Title IX Coordinator determines:

- That the safety of students or employees is at risk;
- That equitable access to the College's educational program or activity is at risk; or
- When the alleged harassment by an employee of the College is determined to place the integrity of the College at significant risk.

In this situation, the Title IX Coordinator is not the Complainant or a party during the grievance process.

Responding to Formal Complaints

When a Formal Complaint involves an allegation involving a College education program or activity, the Title IX Coordinator will initiate the grievance process to provide for a prompt, equitable, and impartial resolution. The Title IX Coordinator will provide confirmation of receipt of the Formal Complaint to the Complainant within five (5) business days of filing.

When a Formal Complaint does not involve an allegation involving a College educational program or activity, the Title IX Coordinator will inform the Complainant that no action will be taken. The appeals process outlined below is still available to the Complainant in this situation.

Informal Resolution

An informal resolution may be an appropriate option when the conduct involved is not of a repetitive nature and disciplinary action is not required to remedy the situation. However, the informal resolution process is never an option when the Respondent is an employee of the College.

No formal investigation or hearing is involved in the informal resolution process. The Title IX Coordinator will determine whether the nature of the problem is resolvable by an informal agreement. All parties involved must voluntarily give written consent to the informal resolution process. At any time prior to a final resolution, any of parties involved in the informal resolution process have the right to withdraw from the process. This will result in following the grievance procedure outlined below.

Methods for informal resolution may include, but are not limited to:

- Coaching the student on how to directly address a situation which is causing a problem;
- Aiding in the modification of a situation in which the offensive conduct occurred (e.g. altering a class schedule);
- Assisting appropriate staff with the resolution of a real or perceived problem; and/or

- Arranging a documented meeting with the alleged Respondent that involves a discussion of the requirements of this Policy.

The College will document any informal resolution, retaining such documentation in the College's Title IX records. Documentation will be shared with the parties involved, but will otherwise be confidential to the extent permitted by law.

The Title IX Grievance Process

The Respondent is presumed not responsible for the alleged sexual harassment prior to the conclusion of this grievance process. The College has selected a **preponderance of evidence standard of proof**, which means after hearing all of the evidence, the Title IX Adjudicator will make a final determination on a "more likely than not" standard.

After assessing the risk that the Respondent may pose an immediate harm to the safety or health of a student or other individual, the Title IX Coordinator may initiate a suspension of a student Respondent or request that an employee Respondent be placed on administrative leave while the investigation process outlined below proceeds.

The Investigation Process

When a Formal Complaint involves an allegation involving a College educational program or activity, the Title IX Coordinator will provide the Title IX Investigator with the Formal Complaint and instruct the Title IX Investigator to begin the investigation process. The Title IX Coordinator will then:

- Ensure that the Complainant has a chosen advisor who will be with the Complainant throughout the process;
- Inform the Respondent that a Formal Complaint has been filed against him or her, provide information about the grievance process, and inform him or her that the Title IX Investigator will be contacting them soon; and
- Ensure that the Respondent has a chosen advisor who will be with the Respondent throughout the process.

Within five (5) business days of the Title IX Coordinator providing the Formal Complaint, the Title IX Investigator will meet with the Complainant and their advisor to review the Formal Complaint. The Title IX Investigator will ask for a list of witnesses the Complainant would like the Title IX Investigator to speak with as well as appear at the hearing. The Complainant has the right to name any employee or student of the College who has direct knowledge of the alleged sexual harassment or surrounding circumstances to be a witness. The Title IX Investigator reserves the right at this time to remove any sensitive or compromising information regarding others (i.e. students, employees) prior to continuing the process.

Within five (5) business days of the meeting with the Complainant, the Title IX Investigator will send a copy of the Formal Complaint to the Respondent. The Respondent then has up to three (3) business days after receiving the Formal Complaint to submit a written response to the Title IX Investigator addressing all allegations in the Formal Complaint. A shorter response time may be required in appropriate circumstances, and the Title IX Investigator will communicate the response deadline in writing to the Respondent. The Respondent's failure to respond may result in disciplinary action against the Respondent.

Within five (5) business days of receiving the written response from the Respondent, the Title IX Investigator will meet with the Respondent to discuss the Formal Complaint and their written response. During this meeting, the Title IX Investigator will ask for a list of witnesses the Respondent would like the Title IX Investigator to speak with as well as appear at the hearing. The Respondent has the right to name any employee or student of the College who has direct knowledge of the alleged sexual harassment or surrounding circumstances to be a witness.

The Title IX Investigator will then further investigate the Formal Complaint as appropriate, including reviewing evidence, interviewing witnesses, and following up with the Respondent and Complainant (including their advisors in these communications).

The Title IX Coordinator may terminate the investigation and dismiss the Formal Complaint if the Complainant withdraws the Formal Complaint, if the Respondent is no longer a student or employee of the College, or if the Title IX Investigator is

unable to gather sufficient evidence toward reaching a determination.

No later than 30 days after receiving the initial Formal Complaint from the Title IX Coordinator, the Title IX Investigator will conclude the investigation and provide a written report to the Respondent, Complainant, and the Title IX Adjudicator. The Title IX Investigator will communicate in writing any delay in this timeline of the investigation to all parties, with an explanation of the reasons for the delay.

If there is no delay, both the Respondent and Complainant will be allowed 10 business days to provide a response to the report prior to the hearing phase. The Title IX Investigator will provide a copy of the investigations and any response(s) to the Title IX Adjudicator, who will then schedule the live hearing.

The Live Hearing

The Title IX Adjudicator will conduct a live hearing within five (5) business days of receiving the investigation report and any response(s). At the live hearing, The Title IX Adjudicator will advise all parties of the rules of decorum for the proceedings, stating the expectation that all in attendance will comply with the rules. Advisors for both parties will be allowed to ask relevant questions and cross-examine the other party and witnesses. The Complainant and the Respondent will not be permitted to ask questions of the other party or their witnesses. The Title IX Adjudicator may disallow a question if he or she determines the question is not relevant to the matter. If a question is determined to be not relevant, a reason will be given. No pre-recorded questioning of parties is allowed. It must all occur live.

At the request of either party or at the discretion of the Title IX Adjudicator, each party may in separate rooms, and technology, such as Zoom[®], can be used for the purposes of conducting the live hearing.

If a party refuses to submit to cross-examination by the opposing party's advisor, no statement of that party or witness may be taken into consideration by the Title IX Adjudicator, nor can the Title IX Adjudicator draw any inference based on the absence of a party or witness from the hearing. If a party does not appear or submit to cross-examination, someone else may not recount the statement of the party on their behalf.

A record of the live hearing must be made and provided to the Complainant and Respondent. The Title IX Adjudicator has the discretion to provide an audio or audiovisual recording of the live hearing or a detailed transcript of the live hearing.

Written Determination

Within five (5) business days of the live hearing, the Title IX Adjudicator must issue a written determination regarding responsibility of the Respondent for the allegation(s) made in the Formal Complaint.

The written determination must include the following:

- Identification of the allegations potentially constituting sexual harassment;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the written determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Determination of responsibility for each allegation using the preponderance of evidence standard of proof;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the College's code of conduct to the facts;
- Any disciplinary sanctions imposed on the Respondent;
- Any remedies to be provided to the Complaint (including but not limited to supportive measure established earlier in the process); and
- Information on how to appeal the written determination.

Guidelines for Appropriate Responses

For each allegation, the Title IX Adjudicator will either:

- Dismiss the allegation as being without merit;
- Conclude that the Respondent violated the College's policy regarding sexual harassment and therefore recommend disciplinary action. Disciplinary action may include up to termination of employment for an employee and removal from the College for a student; or
- Conclude that it is not possible to make a determination that the Respondent violated the College's policy regarding sexual harassment. In such cases, the Title IX Adjudicator will determine an appropriate response to both parties in consideration of the evidence presented and any other pertinent information available.

Delivery of the Written Determination

The Title IX Adjudicator will deliver the written determination simultaneously to the Title IX Coordinator, Complainant, and Respondent.

The written determination will be final 48 hours after the report is delivered, after which time an appeal (see below) will be considered no longer timely. At that point, the findings and disciplinary action recommendations of the Title IX Adjudicator will become the decision of the College.

Implementation

The Title IX Coordinator is responsible for ensuring expeditious implementation of all remedies.

Appeals Process

If one or both of the parties (Complainant or Respondent) does not agree with the written determination of the Title IX Adjudicator, that party may submit a written request for an appeal to the Title IX Coordinator within 48 hours of the report being delivered by the Title IX Adjudicator.

The following reasons constitute the only reasons for making an appeal:

- Procedural irregularity affected the outcome of the grievance process;
- New evidence not reasonably available during the investigation and live hearing that could affect the outcome of the grievance process; and/or
- Alleged conflict of interest or bias on the part of the Title IX Coordinator, Title IX Investigator, or Title IX Adjudicator toward either party or in general toward complainants or respondents (e.g. bias toward the process of filing a grievance).

The reason(s) above must be outlined in the written request for an appeal.

Within five (5) business days of receiving a written appeal request, the Title IX Coordinator will establish a three-person review board. The Title IX Coordinator, Title IX Investigator, Title IX Adjudicator, the advisors, and witnesses may not participate on the review board.

The review board will meet within 10 business days of receiving the review request from the Title IX Coordinator. The review board, prior to meeting, will review the appeals request, Formal Complaint, response, report from the Title IX Investigator, a recording or transcript of the live hearing, and the written determination from the Title IX Adjudicator. At the meeting, the review board will determine whether to uphold the written determination of the Title IX Adjudicator or if a modified or alternate conclusion is warranted. If a modified or alternative conclusion is warranted, the review board will provide their recommendation, which will become the decision of the College.

The review board will provide its final decision in writing to the Title IX Coordinator, who will then provide notification in writing to all parties involved within three (3) business days. The Title IX Coordinator is responsible for ensuring implementation of any remedies. The implementation of such action will take place without delay.

Record Keeping

Upon resolution of the Formal Complaint, the Title IX Coordinator will maintain a confidential electronic file with limited

accesses to include the following:

- A copy of the Formal Complaint;
- A copy of the written response provided by the Respondent;
- The report from the Title IX Investigator;
- The final written determination report of the Title IX Adjudicator;
- The written appeal (if any) and the findings of the appeal review board (if any);
- Copies of any agreements signed by the involved parties; and
- Any other documents relevant to the matter.

The confidential file will be kept in an appropriate place as directed by Title IX Coordinator. Such a file shall be treated as confidential information and will not be revealed to anyone unless it is necessary in connection with any legal or administrative proceedings.

Retaliation Prohibited

No student or employee will retaliate in any way against an individual who, in good faith, filed a Formal Complaint pursuant to this policy or participated in an investigation of such a Formal Complaint. Any person who violates this provision may be subject to discipline, up to and including termination of employment or dismissal from the College.

False Information

Any person who knowingly and intentionally files a false complaint under this policy or knowingly and intentionally provides false information during the investigation or live hearing is subject to disciplinary action, up to and including termination of employment or dismissal from the College.

Counseling and Health Services

The services listed below are available to victims regardless of whether or not he/she chooses to report the incident to law enforcement:

- Sexual Assault Legal Services (888-343-4412)
- Arkansas Crisis Intervention Center, <http://www.fscic.org/>, or call 800-359-0056
- Texas Association Against Sexual Assault; <http://taasa.org> or call 512-474-7190
- La Pinon Sexual Assault Recovery Service of Southern New Mexico; www.lapinon.org, or call 888-595-7273
- RAINN (Rape, Abuse and Incest National Network); <https://www.rainn.org/> or call 800-656-HOPE (4673).