

## TITLE IX COMPLAINT AND INVESTIGATION

The Title IX Complaint and Investigation process is set up to provide a procedure for the investigation and further handling of Title IX complaints, regardless of whether the incident occurred on or off campus. Any person including but not limited to students, staff, and faculty who have a complaint regarding Title IX are encouraged to follow this procedure. This includes, but is not limited to, allegations of discrimination based on gender, sexual orientation, or gender identity. These procedures are established to provide for the prompt and equitable resolution of complaints.

Complaints can be made online through Incident Reporting-Maxient or by contacting Vice President of Administrative Services, Title IX Coordinator, or designee. Employees receiving complaints must forward the complaint by entering it into the Incident Reporting-Maxient or by contacting Vice President of Administrative Services.

## DEFINITIONS

*Conduct Resolution Administer (CRA)* - College administrator trained and assigned to handle the conduct complaint and investigation process. The Title IX Investigator will be assigned as the CRA for Title IX complaints.

*Appeal Review Officer (ARO)* - College administrator trained and assigned to handle the conduct complaint and investigation appeal process. The ARO will defined in the outcome findings and meet the following requirements: They did not serve as the CRA, they were not involved in the investigation in any way, and they have been properly trained in the appeals procedure.

Complaints will be processed in accordance with the following procedures.

## INFORMAL RESOLUTION

Informal resolution is intended to resolve concerns at the earliest stage possible. Informal resolution of complaints is optional. The use of the informal process allows the responsible investigator to work directly and confidentially with the parties involved. Resolution may include discussions with the parties, making recommendations for resolution, and conducting a follow-up review after a period of time to assure that the resolution has been implemented effectively.

## FORMAL COMPLAINT PROCESS

The formal process will be used when the informal process is inappropriate (e.g. when the facts are in dispute regarding allegations of serious misconduct or there are reports of a pattern of inappropriate behavior or criminal acts such as sexual harassment, sexual assault, domestic violence, dating violence, and stalking) or in cases where the informal process is unsuccessful. The formal process involves a written statement of allegations and an independent investigation of the disputed facts.

After the reporter has made a good faith effort to resolve the situation with the other involved person(s), and has been unsuccessful in reaching a satisfactory resolution, the reporter must complete and submit an incident report online through Incident Reporting-Maxient.

**Step I-** Complaint must be made within 30 college working days of incident.

\*If it's a discrimination complaint, the complaint must be made within 2 years of incident or pattern of conduct.

**Step II-** An outcome of findings will be provided within 30 college working days from receipt of report to the reporting and responding parties. The timeline may be extended if the investigation reveals the need for additional information or other extenuating circumstances.

**Step III-** Appeals must be filed within 10 college working days of outcome notification.

**Step IV** Appeal decisions should be rendered within 30 college working days from receipt of the notice of appeal. At the discretion of the Appeal Review Officer, this timeline may be extended.

## APPEAL PROCESS

Either the reporter or the respondent may file an appeal. The appeal is limited in scope to whether the College followed its own process. Any appeal must be submitted in writing to the Appeal Review Officer within ten (10) working days of the outcome notification.

The Appeal Review Officer (ARO) will be identified in the outcome findings. The ARO shall meet the following requirements:

- They did not serve as the CRA.
- They were not involved in the investigation in any way.
- They have been properly trained in appeals procedures.

1. The appeals process is not for the purpose of disputing the findings except as required to explain the basis of new evidence for any of the following:
  - A. Procedural error occurred that significantly impacted the outcome of the investigation (e.g. substantiated bias, material deviation from established procedures, etc.);
  - B. Determine whether the decision reached regarding the Respondent was based on substantial evidence; that is, whether the facts in the case were sufficient according to the evidence establishing the fact that a violation of the college policy or procedure had occurred;
  - C. Consider new evidence, unavailable during the original report or investigation, which could substantially impact the original finding. [Note: Failure to provide information during or participate in an investigation, even resulting from concern over pending criminal or civil proceedings, does not make evidence “unavailable” at the time of the report.] A summary of this new evidence and its potential impact must be included.
2. The Appeal Review Officer will conduct an initial review to determine if the appeal request meets the limited grounds and is timely. If the appeal is not timely or substantively eligible, the original finding and sanction will stand and the decision is final. The Appeal Review Officer may consult with the Conduct Resolution Administrator and/or Title IX Coordinator on any procedural or substantive questions that arise.
3. Every opportunity to return the appeal to the original decision-maker for reconsideration should be pursued.
4. Appeals are not intended to be full re-conferences of the complaint. In most cases, appeals are confined to a review of the written documentation or record of the original conduct conference, and pertinent documentation regarding the grounds for appeal. Witnesses may be called if necessary.
5. Appeals are not an opportunity for the Appeal Review Officer to substitute their judgment for that of the original decision-maker merely because they disagree with the finding and/or sanctions. Appeals decisions are to be respectful to the original decision-maker, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so.
6. Where the original decision-maker may be unduly biased by a procedural or substantive error, the ARO may reconsider the matter. In review, the original finding and sanction(s) are presumed to have been decided reasonably and appropriately, thus the burden is on the appealing party(ies) to show clear error.

7. Appeal decisions should be rendered within 30 college working days from receipt of the notice of appeal and are considered the final decision of the college; there are no additional appeal options. At the discretion of the Conduct Resolution Officer, in consultation with the Appeal Review Officer, this timeline may be extended.
8. On reconsideration, the Appeal Review Officer, or original decision-maker may affirm or change the findings and/or sanctions of the original outcome notification according to the permissible grounds. Procedural or substantive errors should be corrected, new evidence should be considered, and sanctions should be proportionate to the severity of the violation and the Student's cumulative conduct record.
9. In cases involving appeals by a student accused of violating the *Student Code of Conduct*, review of the sanction(s) may not result in additional sanction(s) for the Respondent. Instead, following an appeal, the Appeal Review Officer may upon review of the case, reduce, but not increase, the sanctions imposed by the Conduct Resolution Administrator.
10. In cases involving appeals by persons other than the Respondent of violating the *Student Code of Conduct*, the Appeal Review Officer may, upon review of the case, reduce or increase the sanctions imposed by the Conduct Resolution Administrator or remand the case to the original Conduct Body and Conduct Resolution Administrator.
11. The presumptive stance of the College is that all decisions made and sanctions imposed by the original decision-maker are to be implemented during the appeal process. At the discretion of the Appeal Review Officer, in consultation with the Title IX Coordinator when necessary, implementation of sanctions will remain the same.

#### STATUS OF STUDENT PENDING FINAL ACTION ON A COMPLAINT

Pending action on a complaint, the status of a student will not be altered, or his or her right to be present on the campus and to attend classes, except for reasons relating to his or her physical or emotional safety and well-being, or for reasons relating to the safety and wellbeing of students, faculty, or College property.

Adopted as Administrative Procedure:

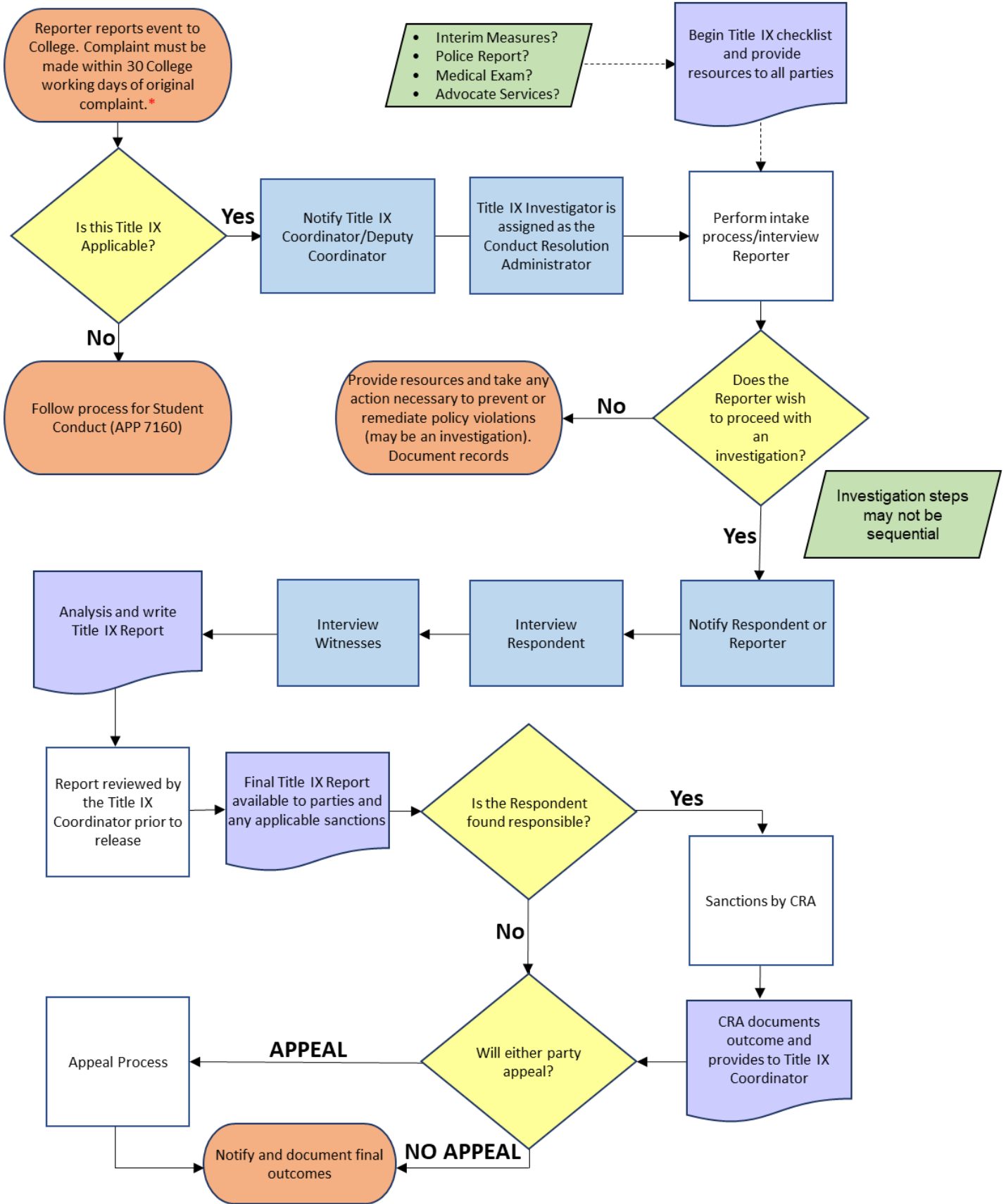
Procedure # 6.2.070 July 28, 2003

Revised: February 7, 2005

Revised: May 2, 2012

Revised: May 6, 2020

# Southwestern Oregon Community College Title IX Process Flow



\*If it's a discrimination complaint, the complaint must be made within 2 years of incident or pattern of conduct

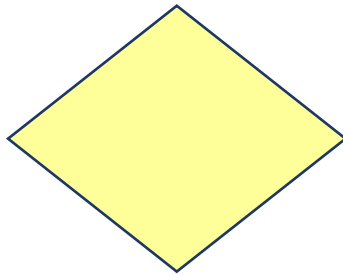
## Process Map Key



Start/End



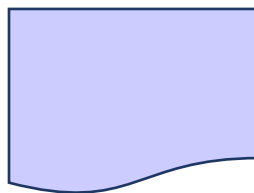
Process



Decision



Subprocess

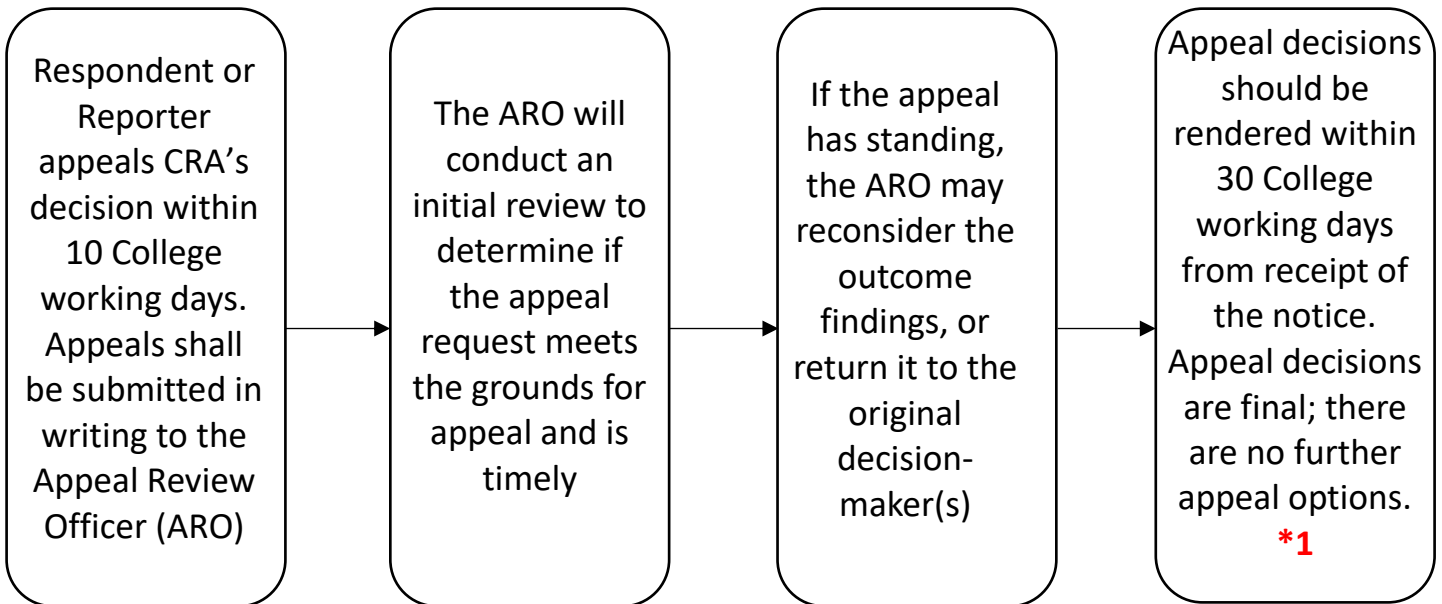


Document



Data

## APPEAL PROCESS



**\*1** – At the discretion of the Appeal Review Officer, this timeline may be extended