

# **Discrimination, Harassment, and Sexual Misconduct**

## **Policies & Procedures**

Members of the Becker College community, guests and visitors have the right to be free from discrimination, harassment, and sexual misconduct in the learning environment and work setting. We are dedicated to creating a climate that is preventative, safe, supportive and provides due process for ALL students, employees, and visitors through education, meaningful discussion, and thorough response to reported incidents.

Becker College is an Equal Opportunity/Affirmative Action institution and prohibits discrimination on the basis of age, sex, race, color, religion, ancestry, national origin, disability, gender identification, genetic information, sexual orientation, marital status, veteran status or any other characteristic protected by federal, state or local law. This policy applies to all terms and conditions of employment, admission to and enrollment with the College, including, but not limited to, recruitment, selection, hiring, placement, transfer, promotion, training, compensation, benefits, discipline, termination, educational policies, admission policies, financial aid, scholarship and loan programs, housing, athletic and other College-administered programs and activities. Further, faculty, staff, students, and applicants are protected from retaliation for filing complaints or assisting in an investigation of discrimination. Inquiries regarding non-discrimination policies may be directed to: Michelle Fatcheric, Title IX Coordinator, 44 West Street, Worcester, MA, 774.354.0462, [michelle.fatcheric@becker.edu](mailto:michelle.fatcheric@becker.edu).

### **Rights and Responsibilities**

Regardless of the status of the parties involved, this policy applies to students, staff, faculty, administrators, trustees, volunteers, visitors, contractors, and vendors. This policy also extends to the College the right to act on incidents occurring on-campus, at College-sponsored events and programs, off-campus, and online conduct when the College determines that such conduct affects the College's educational or employment environment.

Students and employees continue to be subject to city, state, and federal laws while at Becker College, and violations of those laws may also constitute violations of College policies. In such instances, the College may proceed with an investigation under these policies independently of any criminal proceeding involving the same conduct and may impose sanctions for violation of these policies even if such criminal proceeding is not yet resolved or is resolved in the Respondent's favor.

The College reserves the right to proceed with a hearing process even if the Respondent withdraws from the College, is no longer enrolled in classes or employed, or subsequently fails to meet the definition of a student or employee while a disciplinary matter is pending.



If the responding party (Respondent) is unknown or is not a member of the College community, the Title IX Coordinator (or designee) will assist individuals in identifying appropriate campus resources or local authorities if the Complainant would like to file a report. In addition, Becker College may take other actions to protect the individual and the campus community. The College will assist students, faculty, and staff who report sexual violence, sexual harassment, stalking, dating violence and/or domestic violence in obtaining medical support and information regarding available legal and student/employee resources, as well as counseling and support services. The College will also assist students, faculty and staff in notifying local police if the assistance of law enforcement is requested.

This policy supersedes all current College policies pertaining to discrimination, harassment, and sexual misconduct.

## **General Definitions**

**Title IX Coordinator:** individual charged with coordinating the College response to reports and complaints of misconduct under this policy; they do not serve as an advocate for either the reporting party or responding party.

**Protected Class:** any protected category under applicable local, state, and federal law, ordinance, or regulation.

**Reporting Party:** the person or entity bringing the allegations that this policy has been violated (Complainant); may include a 3rd party reporter

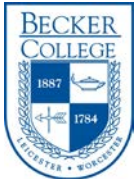
**Responding Party:** the person or entity alleged to have violated this policy (Respondent)

## **Title IX Coordinator**

The College has designated a Title IX Coordinator to oversee compliance with all aspects of the sex/gender harassment, discrimination and misconduct policy.

Anyone wishing to make a report relating to discrimination or harassment, or questions about this policy should be directed to the Title IX Coordinator.

Michelle Fatcheric  
Boutin Student Center, 2<sup>nd</sup> floor  
44 West St.  
Worcester, MA 01609  
774.354.0462  
[michelle.fatcheric@becker.edu](mailto:michelle.fatcheric@becker.edu)



Students and/or employees may also contact the Title IX Coordinator in order to:

- seek information or training about rights and courses of action available to resolve reports or complaints that involve potential discrimination, harassment, or sexual misconduct;
- file a complaint or make a report of discrimination, harassment, or sexual misconduct;
- notify the College of an incident or policy or procedure that may raise potential concerns related to this document;
- obtain information about available resources (including confidential resources) and support services relating to discrimination, harassment, or sexual misconduct; and
- ask questions about the College's policies and procedures related to discrimination, harassment, or sexual misconduct.

The Title IX Coordinator listed above monitors and advises compliance, including:

- Training, consultation, and technical assistance on Title IX for students and employees;
- Conducting adequate, reliable, and impartial investigations of reports and complaints;
- Implementing steps to ensure the reporting party's equal access to the College's programs and activities and protect the reporting party as necessary.

Inquiries or complaints that involve potential violations of Title IX or Section 504 may also be referred externally to the US Department of Education's Office of Civil Rights:

Office for Civil Rights

***Boston Office***

U.S. Department of Education

8<sup>th</sup> Floor

5 Post Office Square

Boston, MA 02109-3921

Telephone: (617) 289-0111

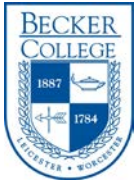
Facsimile: (617) 289-0150

[Email: OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

## **Discrimination, Harassment and Sexual Misconduct Defined\***

Discrimination is defined as unequal, adverse treatment of an individual because of his/her protected legal status, such as race, age, or gender, that unreasonably interferes with, denies, or limits someone's employment access, benefits or opportunities, and/or the ability to participate in or benefit from the College's educational program and/or activities.

Discrimination can take many forms, including the following prohibited conduct:



**Harassment is:**

- any unwelcome sex-based and/or gender-based verbal, written, or physical conduct that is
- sufficiently severe, pervasive or persistent that it
- creates an intimidating, hostile, degrading, humiliating, or offensive environment and
- interferes with, denies, or limits one's access to or benefits of the employment and/or educational environment.

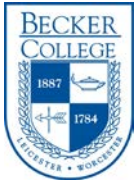
***Examples of harassment include:*** bullying; hazing; verbal, written (including via electronic communication), or physical intimidation; persistent unjustified criticism; public humiliation; insults, jokes, and inappropriate comments; threats; displays of objectively offensive materials; and exclusion.

***Examples of sexual harassment include:*** an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexual based request; to condition a benefit on submitting to sexual advances; and gender-based bullying.

**Non-Consensual Sexual Contact is:**

- any intentional sexual touching
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force.

***Sexual contact includes:*** contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth, or other orifice.



**Non-Consensual Sexual Intercourse** is:

- any sexual intercourse
- however slight
- by a person upon another person
- with any object
- that is without consent and/or by force.

***Intercourse includes:*** vaginal or anal penetration by a penis, object, tongue or finger and oral copulation (mouth to genital contact or genital to mouth contact) no matter how slight the penetration.

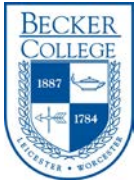
**Sexual Exploitation** occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.

***Examples of sexual exploitation include:*** invasion of sexual privacy; prostituting another person; non-consensual video or audio-taping of sexual activity; going beyond the boundaries of consent (such as letting someone hide in a closet to watch consensual sex); engaging in voyeurism; knowingly transmitting an STI or HIV; exposing one's genitals in non-consensual circumstances or inducing another to expose their genitals; sexually based stalking and/or bullying may also be forms of sexual exploitation.

**Relationship Violence** is violence between those in an intimate relationship (this includes romantic, dating, or domestic relationships).

***Examples include, but are not limited to:***

- physical assault between two people in a current or prior intimate relationship who do not live together (Dating Violence)



- physical assault between two people in an intimate relationship who live together  
(Domestic Violence)

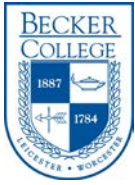
**Stalking** refers to an unwelcome course of conduct, directed at a specific person, on the basis of an actual or perceived membership to a protected class that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.

Becker College also prohibits cyber stalking which occurs when a person, through a pattern of conduct which includes the use of electronic communication, causes another person physical or mental distress.

### **Romantic/Sexual Consensual Relationships between People with Unequal Power**

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (e.g., faculty and student, supervisor and employee). The unequal power inherent in such relationships, even if consensual, heightens the vulnerability of the person with less power and heightens the potential for coercion and abuse. In addition, these relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of this policy. Such relationships can also create a hostile learning and work environment for others.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. For the protection of members of this community, relationships in which power differentials are inherent are generally discouraged. This applies to all employees, including student employees and their supervisors. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must inform his/her supervisor so that appropriate actions can be made to remove the involved supervisor from direct supervision of the employee.



**Retaliation** is any action, statement, or behavior that is designed to punish an individual for filing a report, cooperating with an investigation, seeking guidance regarding a concern or to deter someone from taking such action. Retaliation in any form will not be tolerated by any participant or third-party to a discrimination, harassment or sexual misconduct policy violation or suspected violation. Acts of retaliation will be investigated and addressed according to this policy.

Violation of any other College rule, when it is motivated by perceived membership of the victim in a protected class, including sex or gender, may be pursued using this policy and process.

*\*Note that campus definitions of harassment, stalking, domestic violence and types of sexual misconduct to address College policy violations differ from state and federal law definitions that are applicable to criminal prosecutions.*

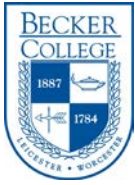
## **Consent**

Consent is clear, informed, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding willingness to engage in and the conditions of sexual activity.

Consent to one form of sexual activity cannot imply consent to other forms of sexual activity. Previous relationships or consent cannot imply consent to future sexual acts. Consent can be withdrawn once given, as long as that withdrawal is clearly communicated.

Consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that he or she does not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

In order to give effective consent, one must be of legal age (in Massachusetts, age 16).



Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, where, why or how” of their sexual interaction). If you have sexual activity with someone you know to be—or should know to be—mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), you are in violation of this policy.

This policy also covers someone whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of a so-called “date-rape” drug.

Use of alcohol or other drugs will never function to excuse behavior that violates this policy.

This policy is applicable regardless of the sexual orientation and/or gender identity of individuals engaging in sexual activity.

## **Reporting**

Becker College is committed to creating a culture of reporting by encouraging reporting.

Becker College is obligated to follow up on all allegations and is able to respond formally to alleged incidents of discrimination, harassment, and sexual misconduct that occurred on campus, that were part of an official College program or activity (regardless of location), or where the Reporting party and Responding party are members of the Becker College community.

## **Confidentiality & Privacy**

Confidentiality and privacy are valued for parties involved in an incident of discrimination, harassment, or sexual misconduct. In working with individuals, the College will be guided by the goals of empowering the reporting party and allowing the reporting party to retain as much control over the process as the case allows, but no college employee (other than those listed as confidential reporters below) can or may promise confidentiality over the course of the process. When the investigation and/or resolution process requires disclosure of certain information, the College will keep the reporting party informed, and protected to the extent permitted by the circumstance.

Becker College cannot promise complete confidentiality; however, we will work to ensure each situation is resolved as privately as possible in compliance with the Family Educational Rights and Privacy Act (FERPA), a federal law. Becker College understands that reporting a crime may involve disclosing sensitive information. The College will use and disseminate such information consistent with the need to conduct an appropriate investigation, to provide assistance and resources to crime victims, and to perform other appropriate College functions. Note that the use





and release of personally identifiable information from an education record of a student is governed by the Family Educational Rights and Privacy Act (FERPA), and the College will only disclose covered student information in compliance with that law and College policy.

### **Confidential Reporting**

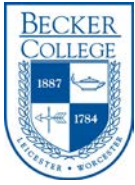
If a reporting party does not desire action by the College and would like the details of the incident to be kept confidential, the reporting party may seek support from certain resources who are not required to tell anyone else private, personally identifiable information unless there is cause for fear of victim safety, or the safety of other members of the community.

- On Campus:
  - Becker College Counseling Center – 508.373.9544
  - Becker College Student Health Services – 774.354.0471
- Local Off Campus:
  - Pathways for Change – 1.800.870.5905
  - Worcester County Victims Assistance – 1.508.792.0214
  - SafeLink Domestic Violence Hotline – 1.877.785.2020
  - Clergy/Chaplains
  - Licensed professional counselors
- National Resources:
  - National Sexual Assault Hotline – 1.800.656.HOPE
  - National Resource Center on Domestic Violence – 1.800.799.SAFE

### **Formal Reporting Options**

All College employees have a duty to report, unless they fall under the “Confidential Reporting” section above. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared by the employee with the Title IX Coordinator. Employees must share all details of the reports they receive. Generally, climate surveys, classroom writing assignments, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Coordinator by employees. Remedial actions may result without formal College action.

If a victim does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the victim may make such a request to the Title IX Coordinator, who will evaluate that request, in light of the duty to ensure the safety of the campus and comply with federal law.



In cases indicating pattern, predation, threat, weapons and/or violence, the College will likely be unable to honor a request for confidentiality. In cases where the victim requests confidentiality and the circumstances allow the College to honor that request, the College will offer interim supports and remedies to the victim and the community, but will not otherwise pursue formal action. A complainant has the right, and can expect, to have reports taken seriously by the College when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy.

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex or gender harassment or discrimination of which they become aware, is a violation of College policy and can be subject to disciplinary action for failure to comply with College policies.

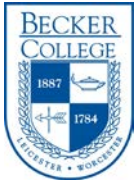
### **Federal Timely Warning Reporting Obligations**

It should be understood, that College administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The College will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

### **Amnesty for Reporting Party**

The College will take into consideration the positive impact of reporting an incident of discrimination, harassment, or sexual misconduct when determining the appropriate response for policy violations by the reporter of an incident. An individual who reports misconduct, either as a reporting party or third party witness, will not be subject to disciplinary action by the College for his/her own personal consumption of alcohol or drugs at or near the time of the incident, provided the specific incident has not come to the College's attention via normal reporting channels and/or any such violations did not and do not place the health or safety of any other person at risk. Education options may be explored, but no conduct proceedings or record will result.

### **Bystander Intervention**



Bystanders play a critical role in the prevention of sexual and relationship violence. As such, Becker College expects all community members to take reasonable and prudent actions to prevent or stop an act of misconduct. Taking action may include direct non-violent intervention, calling law enforcement, and seeking assistance from a person in authority. Community members who choose to exercise this positive moral obligation in good faith and a reasonable manner will be supported by the College and protected from retaliation.

## **False Complaints**

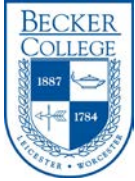
The College will seriously investigate all complaints. However, it also recognizes that false complaints are likely to cause significant damage to the person and reputation of an individual who is wrongfully accused. Individuals found to have knowingly made false complaints will be subject to disciplinary action. A complaint that is erroneous but made in good faith will not be subject to disciplinary action.

## **Investigation and Resolution Process**

When the College receives a notice of offense or complaint, the Title IX Coordinator will complete an initial assessment and make an initial determination whether a policy violation may have occurred. If a complaint does not appear to allege a policy violation, then the complaint does not proceed. Even where a violation of this policy is not found to have occurred, the College may recommend that mediation, counseling, or other restorative steps be taken. If another campus policy is found to have been violated, the College may implement sanctions as appropriate.

The Title IX Coordinator will explain the College conduct procedures to the reporting party, including: the difference between the administrative procedures and criminal reporting; no contact orders and remedial action; and confidentiality and privacy. The College has an obligation to investigate allegations of sexual misconduct as provided for in this policy.

Before pursuing the formal resolution process, every reasonable effort should be made to constructively resolve conflict with students, faculty, staff or administrators. The use of an informal complaint and resolution procedure is optional. Nothing in this informal complaint process is meant to discourage an individual from filing a formal complaint. Whenever possible and safe, the problematic behavior, conflict or misconduct should first be discussed by the impacted person and the person engaged in the problematic behavior, conflict or misconduct.



The Title IX Coordinator will facilitate such conversations, upon request, and monitor them for safety. Mediation is not used when violent behavior is involved, when the Coordinator determines a situation is not eligible, or parties are reluctant to participate in good faith. When valid complaints are resolved informally, the offending party should be cautioned that repetition of such conduct could lead to formal complaint or investigation.

If informal efforts are unsuccessful, the formal resolution process may be initiated. Either party has the right to end the informal process and begin the formal process at any time prior to resolution.

## **Rights of Those Involved**

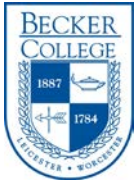
At Becker College we deliver to each student a transformational learning experience emphasizing mutual respect for all members and guests while valuing dignity and worth that each brings to the community. When incidents occur that are detrimental to upholding our core values and disrupt Becker College's community, the College will seek to restore an atmosphere that is conducive to learning and personal growth while upholding the rights of community members. Becker College's Title IX Coordinator has a responsibility to protect the rights of all parties involved in any allegation of improper behavior.

Reporting party has the right to:

- be treated with dignity and respect.
- have allegations treated seriously.
- notify or not notify law enforcement and to be assisted by campus authorities in notifying law enforcement.
- have their cases referred for administrative campus investigation and review.
- have campus personnel take reasonable and necessary actions to prevent further unwanted contact by alleged responding parties.
- amnesty for minor student misconduct (such as alcohol or drug violations) that is secondary to the alleged incident.

Reporting parties and Responding parties have the right to:

- be treated with respect by College officials.
- information for on- and off-campus support resources.
- have grievances reviewed through the procedures outlined in this policy.



- be accompanied by an advocate or advisor of their choice during the campus investigative and administrative process, though advocates may not address or participate in the process.
- be informed of the outcome of any campus disciplinary process related to this policy.
- be free from retaliatory actions by other members of the community.

Reporting party will be notified of, and have the right to receive, no contact administrative orders and adjustments to academic, housing, or work arrangements, whether or not there is a formal complaint.

### **Interim Actions & Remedies**

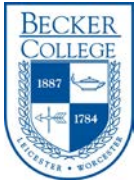
The College may implement interim actions and remedies as appropriate upon notice of alleged discrimination, harassment, and/or sexual misconduct. Interim actions and remedies will be made for the safety of the individuals involved as well as the College community as a whole. Requests for assistance may be made to the Title IX Coordinator who will confer with the Chief Academic Officer (or designee) or Associate Vice President of Human Resources to implement any immediate interim actions necessary to stop any discrimination or harassment.

Interim actions may include, but are not limited to: providing counseling, access to medical services, providing academic support, interim suspensions, paid or unpaid leave, no contact orders, College housing adjustments, campus escort, academic or work schedule and assignment accommodations, safety planning, and/or referral to campus or community support resources.

The College may interim suspend a student or employee pending the completion of an investigation and resolution, particularly in when in the judgment of the Title IX Coordinator, the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the responding party whose behavior is in question. In all cases in which an interim suspension is imposed, the student or employee will be given the opportunity to meet with the Title IX Coordinator prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Title IX Coordinator has sole discretion to implement or stay an interim suspension under this policy and to determine its conditions and duration. Violation of an interim suspension under this policy is grounds for expulsion or termination.

### **Investigation**

A full investigation will be pursued if there is evidence of a violation, a pattern of misconduct, a presence of violence, or a perceived threat of further harm to the community or any of its members. The College desires to complete all investigations within a 60 day time period, which



can be extended as necessary for appropriate cause by the Title IX Coordinator with notices to the parties.

Once a full investigation is deemed appropriate, within two (2) business days the Title IX Coordinator will appoint a trained investigator to complete the investigation. The investigation will be conducted with no predisposition towards any particular finding or result. It will be a thorough, reliable and impartial inquiry into the allegations of the complaint, the responses and defenses raised by the responding party, and other relevant issues.

A trained investigator will interview the reporting and responding parties as well as identified witnesses. Investigators will complete the investigation promptly and without reasonable deviation from the intended timeline of ten (ten) business days. Investigators will provide regular updates to both the reporting and responding parties as appropriate throughout the investigation. Investigators will prepare a summary report with findings to the Title IX Coordinator who will make recommendations for sanctioning based on the report. If the Title IX Coordinator serves as a party or witness in the investigation, the investigator's report will be sent to the Vice President of Student Affairs at Becker College for determination of disciplinary sanctions.

In making a determination of responsibility, the College considers the greater weight of the credible evidence as its standard. Often referred to as the "preponderance of the evidence," this standard asks decision-makers to consider whether it is more likely than not that a violation occurred.

The standard of evidence in determining whether a Responding party is in violation is not as high as that of the criminal process. No individual will be found in violation of Becker College's policies without the preponderance of evidence that a policy violation occurred. Legal rules of evidence do not apply in campus conduct cases.

At any point during the investigation, if it is determined there is no reasonable cause to believe that College policy has been violated, the Title IX Coordinator has authority to terminate the investigation.

## **Sanctions**

Not all forms of discrimination, harassment and sexual misconduct are equally serious offenses, and the College reserves the right to impose different sanctions, ranging from verbal warning to expulsion/termination, depending on the severity of the offense. The College will consider the concerns and rights of both the reporting and responding party.



- Any person found responsible for violating the policy on Non-consensual Sexual Contact (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion (student) or termination (employee), depending on the severity of the incident, and taking into account any previous violations.
- Any person found responsible for violating the policy on Non-consensual Sexual Intercourse will likely receive a sanction of suspension to expulsion (student) or termination (employee).
- Any person found responsible for violating the policy on Sexual Exploitation or Sexual Harassment (and related violations) will likely receive a sanction ranging from warning to expulsion (student) or termination (employee), depending on the severity of the incident and taking into account any previous violations.
- Any person found responsible for violating policies on Dating Violence, Domestic Violence, or stalking will likely receive a sanction of Probation with Restrictions to expulsion (student) or termination (employee).

## **Results of Investigation**

### **For Students**

Students found to have violated College policy will have appropriate disciplinary sanctions administered by the Title IX Coordinator. The Title IX Coordinator will provide written notification of the outcome to the parties. In cases involving sexual misconduct, sexual harassment, stalking and/or intimate partner violence, the written notification will include the finding, any resulting sanctions, and the rationale for the decision. This written notification will be delivered to the parties without due delay between notifications and will include appeal options and procedures.

### **For Employees**

Employees found to have violated College policy will have appropriate disciplinary sanctions administered by the Associate Vice President of Human Resources. The Associate Vice President of Human Resources will provide notification of the outcome to the parties. In cases involving sexual misconduct, sexual harassment, stalking and/or intimate partner violence, the written notification will include the finding, any resulting sanctions, and the rationale for the



decision. This written notification will be delivered to the parties without due delay between notifications and will include appeal options and procedures.

## Appeals

The Reporting party and Responding party each have the right to appeal any outcome decision. In the event that the responding party accepts the findings of the investigation, those findings cannot be appealed. This appeal is not intended to re-hear the same case and is limited to the specific grounds outlined below. Any resolution or sanction will remain in force while an appeal is considered and a final decision is determined. Each party is limited to one appeal and the decision of the appeal is final. Submission of any appeal must be made in writing to the Title IX Coordinator within three (3) calendar days of receipt of the decision letter. Those appeals should be based on one of the following reasons:

- The established processes were not followed in a significant way that resulted in material harm or prejudice. Deviations from designated procedures will not be a basis for sustaining an appeal unless material harm or prejudice results have occurred.
- Discovery of substantial new evidence that was unavailable at the time of the hearing or investigation that reasonably could have affected the decision. This new information must be included with the Request for Appeal.
- The sanction imposed was disproportionate to the nature of the violation or circumstances. In cases in which a Responding party has accepted responsibility, such appeals are limited to having the severity of the sanction reviewed.

Dissatisfaction with a decision is not grounds for an appeal.

Upon receipt of a request for appeal, the Title IX Coordinator will provide three (3) calendar days for the other party to respond to the request. Requests for appeal will be reviewed by the Vice President of Student Affairs or the Senior Vice President/CFO at Becker College to determine if the petitioner has standing for the appeal and if the appeal could substantially impact the outcome. Appeals decisions are to be deferential to the original hearing body, 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.

If it is found the Request for Appeal does not have merit, the appeals officer will reject the appeal. Both parties will be notified of this appeal outcome decision within five (5) business days. If the Request for Appeal is accepted, the original decision will be reviewed. If a new review of the outcome decision is requested the case is sent back to the Title IX Coordinator to be reviewed and to provide a recommendation for an outcome decision. Both parties will be notified of this decision within five (5) business days. All appeal decisions are final.





## **Special Resolution Process Provisions**

### **College-initiated proceedings**

As necessary, the College reserves the right to initiate a report and to initiate resolution proceedings without a formal report or participation by the victim of misconduct.

### **Notification of Outcomes**

The outcome of a campus hearing is part of the education record of the responding party, and is protected from release under a federal law, FERPA. However, the College observes the legal exceptions as follows:

- Parties to non-consensual sexual contact/intercourse, sexual exploitation, sexual harassment, stalking, and intimate partner violence incidents have an absolute right to be informed of the outcome, essential findings/rationale, and any sanctions that may result, in writing, without condition or limitation, and without substantial delay between notifications to each party.
- The College may release publicly the name, nature of the violation and the sanction for any student who is found in violation of a college policy that is a “crime of violence,” including: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property, intimate partner violence, stalking and kidnapping/abduction. In doing so, the College will not release any information that could lead to the identification of the reporting party.

### **Past Sexual History/Character**

The past sexual history or sexual character of a party will not be admissible by the other party in the investigation or hearing unless such information is determined to be highly relevant by the investigator (pertaining only to past or subsequent interactions between the parties that offer context). All such information sought to be admitted will be presumed irrelevant, and any request to overcome this presumption by the parties must be reviewed in advance of the hearing by the Title IX Coordinator. While previous conduct violations by the Responding are not generally admissible as information about the present allegation, the Director of Residence Life and Student Conduct and/or the Title IX Coordinator may supply previous reports of good faith allegations and/or findings to the investigators and appeals officer to consider as evidence of pattern and/or predatory conduct.

### **Witness participation in an investigation**

Witnesses are expected to cooperate with and participate in the College’s investigation. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person. Parties who elect not to participate in the investigation will have the opportunity to offer evidence during the appeal stages of the process, though failure to offer evidence prior to an appeal does not constitute grounds for



appeal on the basis of new evidence.

### **Training for those implementing these procedures**

Personnel tasked with implementing these procedures, (e.g. Title IX Coordinator, investigators, etc.) will be trained at least annually. This training will include, but is not limited to: how to appropriately remedy, investigate, render findings and determine appropriate sanctions in reference to sexual harassment and discrimination allegations; the College's Discrimination, Harassment and Sexual Misconduct Policies and Procedures; confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance.

### **Conflicts of Interest and Bias**

The College is committed to ensuring that its resolution processes (e.g.: investigation, appeal, etc.) are free from actual or perceived bias or conflicts of interest that would materially impact the outcome. Any party who feels that there is actual or perceived bias or conflict of interest that would materially affect the outcome may submit a written petition for the person's removal from the process. The petition should include specifics as to the actual or perceived bias or conflict of interest, as why the petitioner believes the bias or conflict could materially affect the outcome. Petitions should be submitted promptly to the Title IX Coordinator. In the event that the potential conflict or bias involves the Title IX Coordinator, petitions should be submitted to the College president.

### **Recordkeeping**

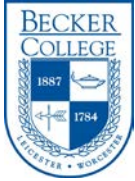
In implementing these procedures, records of all allegations, investigations, and resolutions will be kept by the Title IX Coordinator indefinitely in the electronic Title IX Coordinator database.

## **Title IX Compliance Team**

### **Title IX Coordinator**

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### **Deputy Title IX Coordinators/Investigators**



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