Texas Workforce Commission Vocational Rehabilitation

Title IX Procedure Manual

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# I. INTRODUCTION

## **A. Purpose**

The Texas Workforce Commission Vocational Rehabilitation’s (TWC-VR) policies and procedures are outlined in the Title IX Procedure Manual (Manual). These procedures help to provide a safe and secure environment by ensuring that staff members are knowledgeable about how to resolve complaints of discrimination, harassment, sexual harassment, sexual misconduct, and retaliation by students and employees. The Manual also describes the Title IX policy as it relates to the Criss Cole Rehabilitation Center (CCRC) Program Manual. TWC will not tolerate retaliation against any student or employee as a result of a complaint or report of sexual harassment, sexual misconduct, or any other information provided that is related to a complaint or report being filed. Additionally, no student or employee will tolerate discrimination, harassment, sexual harassment, sexual misconduct and/or retaliation as a condition of participation in any educational activity or as a condition of employment, all of which are prohibited by CCRC policy and [Title IX](https://www.justice.gov/crt/title-ix-education-amendments-1972) of the Education Amendments of 1972 (20 USC §1681, et seq.) (Title IX).

## **B. Title IX Coordinator**

The Title IX coordinator is responsible for ensuring that TWC-VR complies with and fulfills its responsibilities under [Title IX](https://www.justice.gov/crt/title-ix-education-amendments-1972). The Title IX coordinator must be aware of all complaints and reports, as they will be responsible for addressing any Title IX–related issues. The Title IX coordinator is responsible for the following:

* Coordinating all Title IX investigations according to CCRC policy
* Determining supportive measures, if any, that are necessary to protect student and employee rights
* Coordinating appropriate next steps, including appropriate remedial support for any identified complainants and respondents, required educational program changes, and recommendations of student and/or employee disciplinary measures
* Consulting with other departments, as necessary, to determine appropriate actions in accordance with Title IX and other applicable local, state, and/or federal laws and regulations
* Training TWC stakeholders in understanding Title IX’s policies and procedures

The Title IX coordinator’s contact information is:

Erin Humphreys

101 East 15th Street

Austin, Texas 78778

TitleIX@twc.texas.gov

Contact the **US Department of Education’s Office for Civil Rights** at (800) 421-3481 or ocr@ed.gov with Title IX–related inquiries.

## **C. Title IX**

[Title IX](https://www.justice.gov/crt/title-ix-education-amendments-1972), which states that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance," applies to all VR-CCRC educational programs and activities.

The Title IX coordinator is responsible for ensuring that efforts to comply with and fulfill the responsibilities under Title IX include implementing regulations to investigate, stop, prevent, and remedy discrimination and harassment based on sex or pregnancy status, sexual harassment, sexual misconduct, and retaliation.

# II. DEFINITIONS

## A. Complainant

A Complainant is the individual who is alleged to be the victim of conduct that could constitute sexual misconduct, including sexual harassment. For purposes of this policy, the term “party” refers to a Complainant.

## B. Consent

Consent is the informed, freely, and mutually understood words or actions that indicate a willingness to participate in agreed-upon sexual activity. An individual may withdraw consent at any time. There is no consent when there is force, threats, intimidation, or duress. An individual’s lack of verbal or physical resistance or manner of dress does not constitute consent. Consent to past sexual activity with another individual does not constitute consent to future sexual activity with that individual. Consent to engage in sexual activity with one individual does not constitute consent to engage in sexual activity with another individual. An individual cannot consent to sexual activity if such an individual is unable to understand the nature, fact, or extent of the activity or if the individual:

* is incapacitated due to the use or influence of alcohol or drugs;
* is asleep or unconscious;
* is under the legal age to provide consent; or
* has a mental or physical disability that prevents the individual from having the ability or capacity to give consent.

## C. Decision-Maker

A decision-maker is an individual who is free from conflicts of interest and biases and who is trained to serve impartially without prejudging the facts at issue. Decision-makers have the authority to determine whether a Title IX policy was violated, the appropriate disciplinary action or sanction was enforced, and whether a complaint was dismissed.

## D. Document Filed by a Complainant

A document filed by a Complainant is a document or electronic submission (such as by email or through an online portal provided by the school) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the individual filing the formal complaint.

## E. Harassment

For the purposes of this manual, "harassment" means unwelcome verbal, nonverbal, visual, or physical conduct that is based on an individual's actual or perceived sex (including gender identity) or pregnancy status that is persistent, pervasive, or severe and objectively offensive and unreasonably interferes with, limits, or denies an individual's educational or employment access, benefits, or opportunities. Unwelcome conduct may include, but not be limited to:

* bullying;
* intimidation;
* telling offensive jokes;
* referring to an individual by a slur, epithets, or offensive name;
* assault;
* making threats;
* touching;
* ridiculing or mocking;
* insulting or using put-downs;
* sharing offensive objects or pictures;
* sharing offensive messages via email, text or social media;
* making sexual advances, requesting sexual favors, or any other sex-based conduct.

## F. Respondent

A Respondent is the individual who is reported to be the perpetrator of conduct that could constitute sexual misconduct, including sexual harassment, discrimination, or harassment on the basis of sex. For purposes of this policy, the term “party” refers to a Respondent.

## G. Retaliation

Retaliation is any action, or attempted action, directly or indirectly, that is taken against any individual, who, in good faith, reports or discloses a violation of the policy, files a complaint, and/or otherwise participates in an investigation, proceedings, complaint, or hearing under this policy. Retaliation includes, but is not limited to, harassment, threats, job termination, adjustment in pay or responsibilities, or impeding academic progress. Actions are considered retaliatory if they have an adverse effect on an individual’s working, academic, or living environment or if they prevent an individual from effectively carrying out their educational responsibilities.

## **H. Sex Offenses, Non-forcible Intercourse**

Includes the following:

* **Incest**, which is the unforced sexual intercourse between persons who are related to each other.
* **Statutory Rape**, which is the unforced sexual intercourse with a person who is under the statutory age of consent of 17 years of age. It is considered statutory rape when the Complainant is 17 or 18 years of age and the Respondent is in a position of trust or authority, such as a teacher or coach.

## I. Nonconsensual Sexual Contact

Nonconsensual sexual contact is the inappropriate contact of an individual involving the mouth, genital area, inner or upper thigh area, anus, buttocks, breast, neck, or any part of another individual’s body, whether directly or indirectly through clothing.

## **J. Sexual Harassment**

Sexual harassment is any unwelcome or unwanted sexual, sex-based, or gender-based conduct, whether verbal, written, electronic, and/or physical in nature that:

* is sufficiently severe or pervasive;
* is objectively offensive;
* unreasonably interferes with, denies, or limits an individual's ability to participate or benefit from educational and/or employment opportunities, assessments, or status within VR-CCRC;
* is done by an individual who has power or authority over another individual in which submission to such conduct is made explicitly or implicitly a term or condition of educational and/or employment opportunities, participation, assessments, or status within VR-CCRC; or
* is considered an instance of sexual assault, as defined in the [Clery Act](https://www.law.cornell.edu/uscode/text/20/1092), dating violence, or stalking, as defined in the [Violence Against Women Act (VAWA).](https://www.govinfo.gov/content/pkg/PLAW-117publ103/pdf/PLAW-117publ103.pdf)

## K. Sexual Misconduct

Sexual misconduct is behavior used to obtain sexual gratification against another individual’s will or at the expense of another individual. Sexual misconduct includes sexual harassment, sexual assault, and any nonconsensual sexual conduct that is threatening or discomforting, such as exposing oneself or requesting exposure (whether it be through pictures, emails, chats, and so on) of another individual’s private areas and intimidating the individual against whom such conduct is directed.

## **L. Supportive Measures**

Supportive measures are nonpunitive, non-disciplinary individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures are designed to ensure equal educational access, protect safety, and/or deter sexual harassment.

## M. Title IX

[Title IX](https://www.justice.gov/crt/title-ix-education-amendments-1972) is a federal law that prohibits sex discrimination, including sexual misconduct, in educational programs and institutions that receive federal financial assistance. The law also prohibits retaliation intended to interfere with any right or privilege protected by Title IX.

## N. Title IX Coordinator

The VR official responsible for coordinating the school's efforts to comply with and carry out its responsibilities under [Title IX](https://www.justice.gov/crt/title-ix-education-amendments-1972) of the Education Amendments of 1972. The Title IX coordinator must be made aware of all reports, as he or she will be responsible for addressing any Office of Civil Rights Title IX complaints or audits. The Title IX coordinator:

* coordinates all Title IX investigations under the Policy;
* determines supportive measures, if any, that are necessary to protect student and employee rights;
* coordinates appropriate next steps including appropriate remedial support for any identified Complainants and Respondents, educational program changes required, commencement of student discipline and commencement of employee discipline or dismissal;
* consults with other departments as deemed necessary to determine appropriate actions in accordance with [Title IX](https://www.justice.gov/crt/title-ix-education-amendments-1972) as well as other applicable local, state and federal laws, policies, and collective bargaining agreements;
* conducts trainings for TWC Title IX stakeholders; and
* maintains record-keeping requirements.

## O. CCRC Ombudsman/Title IX Liaison

The CCRC ombudsman is the designated official who works in conjunction with the Title IX coordinator to ensure that TWC-VR’s efforts comply with Title IX’s requirements. While students and employees are encouraged to report sexual harassment or retaliation to the CCRC Title IX liaison, a Title IX complaint will not be considered complete until the Title IX coordinator or designee has been notified.

## P. Title IX Sexual Harassment Grievance Procedure

The Title IX sexual harassment and grievance procedure consists of the general principles that govern VR-CCRC policy to ensure that the workplace and educational environment are free from sexual harassment.

# III. REPORTING AND INTAKE PROCEDURES

## A. Mandatory Reporting Requirements

### **Mandated Reporting**

All CCRC employees (such as management, instructors, administrators) are expected to immediately report actual or suspected cases of sexual harassment or retaliation to appropriate officials. This includes employees who might otherwise be considered confidential resources.

In order to make informed choices, staff must be aware of confidentiality and mandatory reporting requirements when consulting with school resources.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX coordinator (and/or police, if required by policy or otherwise desired by Complainant) who will take action when an incident is reported.

### Confidential Resources

Because all CCRC employees are required to report actual or suspected sexual harassment or retaliation, any such information a Complainant shares with a CCRC employee cannot remain confidential.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with a non-TWC employee. The following are some potentially confidential community-based resources that are outside of TWC:

* Employee Assistance Program
* Licensed professional counselors and other medical providers
* Local rape crisis counselors
* Domestic violence resources
* Local or state assistance agencies other than TWC
* Clergy/chaplains
* Attorneys (other than those employed by TWC)

### Mandatory Reporters and Formal Notice/Complaints

All CCRC employees are mandated reporters and must promptly share with the Title IX coordinator all known details of a report made to them in the course of their employment.

CCRC employees must also promptly share **all** details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third party.

Failure of a mandated reporter to report an incident of sexual harassment or retaliation of which they become aware is a violation of this policy and may result in disciplinary action up to and including dismissal.

If a mandated reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct. However, TWC will not be on notice until either the harasser reports themselves or another party reports the Title IX behavior.

### Victims Who Are Mandatory Reporters

A mandated reporter who is a target of harassment or other misconduct under this policy is not required to report their own experience; however they are strongly encouraged to do so.

## **B. Procedure for Making a Title IX Report or Complaint**

Reports and complaints related to sexual harassment, sexual misconduct, retaliation, and other conduct or harassment of a sexual nature, must be reported to the Title IX coordinator.

## C. Intake and Review of Report

### **Intake and Review**

Once the Title IX coordinator receives a report of misconduct covered herein, the coordinator or designee must conduct an intake, review the information received, and determine whether the complaint falls under Title IX jurisdiction. The Title IX coordinator’s initial assessment typically occurs within one to three business days. The Title IX coordinator or designee must, at all times, provide support to the parties regardless of whether the complaint falls under [Title IX](https://www.justice.gov/crt/title-ix-education-amendments-1972) jurisdiction.

Jurisdiction applies to conduct that takes place at the location of VR-CCRC educational programs and activities. It may also apply outside of a physical location and to online conduct that affects a substantial VR-CCRC interest. Regardless of where the conduct occurs, the Title IX coordinator or designee must address all allegations to determine whether the conduct continues to affect participants of a VR-CCRC educational program or activity.

If the Title IX coordinator has jurisdiction, then the coordinator or designee must reach out to the Complainant to offer and/or implement supportive measures and provide information about their right to file a formal complaint under [Title IX](https://www.justice.gov/crt/title-ix-education-amendments-1972) and the informal resolution process that is available to them.

## **D. Title IX Sexual Harassment**

Complaints that fall within the definition of “sexual harassment” are covered by [Title IX](https://www.justice.gov/crt/title-ix-education-amendments-1972) and will be processed as follows.

### Formal Complaint

If an incident falls under Title IX’s definition of “sexual harassment,” then a formal complaint must be filed to request that the Title IX coordinator investigate the allegation. A formal complaint is a written document filed by a Complainant (or by a parent and/or guardian) or signed by the Title IX coordinator that alleges a Title IX sexual harassment violation against a Respondent.

A formal complaint may be filed in person, by mail, by email, or through the [VR3447, Title IX Complaint Form](https://www.twc.texas.gov/vocational-rehabilitation-service-forms), sent to the Title IX coordinator at TitleIX@twc.texas.gov.

### Dismissal of a Formal Title IX Sexual Harassment Complaint

**Mandatory Dismissal:** If any of the following are met, a formal complaint must be dismissed without conducting an investigation under [Title IX](https://www.justice.gov/crt/title-ix-education-amendments-1972):

* + - If a Complainant is not participating in or attempting to participate in the educational program or activity of VR-CCRC at the time of filing a formal complaint
		- If the conduct did not occur in a VR-CCRC educational program or activity
		- If the conduct alleged in the formal complaint does not constitute sexual harassment as defined in Title IX

**Discretionary Dismissal:** If any of the following are met, a formal complaint may be dismissed without conducting an investigation under [Title IX:](https://www.justice.gov/crt/title-ix-education-amendments-1972)

* + If a Complainant notifies the Title IX coordinator in writing that they want to withdraw the formal complaint, or any allegations therein, at any time during the investigation or hearing
	+ If the Respondent is no longer enrolled in or employed by VR-CCRC
	+ If circumstances prevent VR-CCRC from gathering sufficient evidence to reach a determination as to the formal complaint or allegations

**Dismissal Notification and Right to Appeal:** Both parties must receive a simultaneous notification of complaint dismissal from the decision-maker and have the opportunity to appeal the dismissal determination according to the Appeals section below.

When a Title IX sexual harassment complaint is dismissed, the complaint must be evaluated for other policy violations, as defined herein, and processed accordingly.

## E. Student Refusal to Participate in Investigation

A student may refuse to participate in an investigation. Despite any refusal, the Title IX coordinator has the discretion to continue to investigate if doing so is not clearly unreasonable given the known circumstances.

## F. Failure to Report

An individual who fails to report violations of [Title IX](https://www.justice.gov/crt/title-ix-education-amendments-1972) is subject to discipline. Depending on the facts and circumstances, the discipline may include discharge and removal from VR-CCRC educational programs and activities and prohibiting future access to the VR-CCRC premises.

## G. Interference with Investigation

An individual who interferes with an investigation is subject to disciplinary action up to and including discharge. Prohibited investigation interference includes:

* attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
* removing, destroying, or altering documentation relevant to the complaint; and
* knowingly providing false or misleading information to, or withholding information from, the Title IX coordinator, appeals officer, or decision-maker, or encouraging others to do so.

## H. Supportive Measures

In all incidents, the Title IX coordinator must coordinate with VR-CCRC worksites to provide the parties with supportive measures, which are nonpunitive, non-disciplinary individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve access to the VR-CCRC educational programs or activities, without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or deter sexual harassment or other conduct covered herein. Available supportive measures include, but are not limited to, the following:

* Counseling
* Course-related adjustments
* Modifications to work or class schedules
* Campus escort services
* Increased security and monitoring of certain areas of the school or campus
* Mutual restrictions on contact between involved parties
* Connections to external counseling, support, medical and health services, and/or advocacy services

# IV. CASE PROCEDURES

## A. General Guidelines

The Title IX coordinator must follow the case procedures if they receive a report of discrimination, harassment, sexual harassment, sexual misconduct, and/or retaliation.

### **Special Consideration**

TWC takes other factors into special consideration, including, but not limited to, the language ability and disability status of students and/or employees, when responding to sexual misconduct incidents, both in the application of case procedures and in the assessment of applicable policies and discipline.

Subject to [Title IX](https://www.justice.gov/crt/title-ix-education-amendments-1972), after an alleged incident of sexual abuse is accepted for investigation by a law enforcement agency, an alleged victim will not be interviewed by the agency regarding details of the alleged incident of sexual abuse until after the completion of a forensic interview, if such an interview is expected to be conducted.

## **B. Informal Resolution of Complaints**

An informal resolution is available to the parties once a formal complaint has been filed and any time before a determination is made for a Title IX sexual harassment complaint. An informal resolution is used on a case-by-case basis, as determined by TWC and the Title IX coordinator. This option is available only when the Complainant and Respondent agree to an informal resolution. Usually, a preliminary inquiry will still precede this step to ensure that the case is appropriate for an informal resolution.

The parties must be provided with a written notice that includes the following:

* + A description of the reported misconduct and allegations
	+ A description of the requirements of the informal resolution process
	+ A description of the right of the parties to withdraw from the informal resolution process and resume the formal grievance process (However, once the informal resolution process is completed, the parties may not change their minds and revert to a formal grievance process.)
	+ An explanation of the consequences that may result from participating in the process, including descriptions of sanctions that may result, and records that will be maintained and/or made potentially shareable
	+ A determination of whether or not the resolution will be binding on the parties

An informal resolution is necessary in order to pursue the formal process of completing an investigation. Any party participating in an informal resolution may stop the process at any time and request a complete investigation.

Before conducting an informal resolution, TWC must obtain voluntary, written confirmation that the Complainant and Respondent want to resolve the matter through an informal resolution.

If TWC believes that the allegations involve serious misconduct or a pattern of employee misconduct, TWC may be unable to honor a request for confidentiality and/or an informal resolution.

## C. Notification of Allegations and Interview to the Parties

The Title IX coordinator or their designee must provide written notice of allegations and interview to the parties before a formal interview takes place. If the allegations change at any point throughout the investigation, a written notice with the additional allegations must be provided again to both parties.

A **Notification of Allegations** must include the following:

* + Details of the allegation, as follows:
	+ A summary of the allegations made including the date and location of the alleged incident
	+ The identities of the parties involved (if known)
	+ The classification of allegations made, including the conduct that is considered to be sex- and/or gender-based discrimination, sex- and/or gender-based harassment, sexual harassment, and/or sexual misconduct
	+ The type of investigation that will occur
	+ The rights of the parties to supportive measures
	+ TWC and local resources that are available to the parties
	+ Applicable section of the policies and procedures alleged to have been violated
		- A statement that the Respondent is presumed to be not responsible for the alleged conduct until a determination is made according to the process outlined herein
		- A statement that the parties may have an advisor of their choice, such as an attorney
		- A reminder of the expectation of truthfulness in the process, including the consequences of providing false statements or submitting false information
		- A statement that the information learned and shared during an investigation must be treated as confidential

A **Notification of Interview** must be sent to parties at least four calendar days before the initial interview in order to provide parties with sufficient time to prepare for participation in the interview; however, circumstances may necessitate a shorter or longer time frame.

The notice must include the following:

* + - Date
		- Time
		- Location
		- Name of the participants
		- Purpose of the investigative interview or meeting

If the investigation necessitates additional interviews, notification of subsequent interviews will be provided to parties, and the parties may waive the four-calendar-day time frame for preparation.

The notifications of allegations and interviews may, at TWC’s discretion, be combined into one notice containing all of the required information.

## D. Investigations

### **Investigation Norms**

All investigations, regardless of type, must be conducted in a prompt, thorough, fair, and impartial manner. Information that is protected by privilege must not be used during the investigation unless the party waives the applicable privilege.

Every investigation must include the following steps, though not necessarily in this order:

* + - Interviewing all parties and conducting follow-up interviews as needed while notifying the parties of any meeting or interview in advance
		- Allowing each party the opportunity to provide any inculpatory and exculpatory evidence and suggest witnesses
		- Interviewing all available relevant witnesses and conducting follow-up interviews as necessary
		- Completing the investigation as promptly as possible and without unreasonable deviation from the intended timeline
		- Providing the parties with status update notifications every ninety calendar days throughout the investigation
		- The following additional steps must be taken in cases falling under Title IX’s sexual harassment:
			* The Title IX coordinator or designee must write a comprehensive final report that summarizes the investigation and all witness interviews and addresses all relevant inculpatory and exculpatory evidence.
			* A decision-maker must review the material and render a determination of responsibility based upon a preponderance of the evidence standard.
		- The following additional steps must be taken in cases falling outside of Title IX’s definition of sexual harassment:
			* The Title IX coordinator or designee must write a comprehensive final report that summarizes the investigation and all witness interviews and addresses all relevant inculpatory and exculpatory evidence.
			* A decision-maker must review the material and render a determination of responsibility based upon a preponderance of the evidence standard.

TWC, not the parties, is responsible for the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility.

### Investigative Report

Any investigation that the Title XI coordinator or designee conducts must result in an investigative report that fully summarizes the investigation and all witness interviews and addresses all relevant inculpatory and exculpatory evidence. Additionally, before completion, the Title IX coordinator or designee must share investigative reports falling under Title IX sexual harassment with the parties and their advisors. Investigative reports falling outside of Title IX sexual harassment must not be shared with the parties before the report is completed. Before completion of the Title IX sexual harassment investigative report, the investigator must send a copy of a draft of the report and any evidence obtained as part of the investigation that is directly related to the allegations made in a formal complaint to each party and their advisor for their review and inspection a copy. The parties must have 10 calendar days to submit a written response, which the investigator must consider before completing the investigative report. After completed, the investigator must provide the finalized investigative report to the parties and their advisors.

### Impact of Investigations

**Corrective Action by the School Following a Title IX Report:** Employees, vendors, volunteers, customers, and students may be subject to appropriate corrective action following a non-Title IX investigation and report.

**Employees:** Employees who are found to have violated any Title IX policy or applicable law or statute are subject to disciplinary action up to and including dismissal.

**Contractors, Consultants or Vendors:** The Office of the General Counsel (OGC) must coordinate with the appropriate individuals within TWC to determine the appropriate disciplinary actions for contractors, consultants, or vendors, which may include debarment.

**Volunteers**: OGC must coordinate with the appropriate individuals within TWC to determine the appropriate disciplinary action for volunteers, which may include, but is not limited to, rescinding an individual’s authorization to serve as a volunteer.

**Non-Title IX Investigations:** Non-Title IX investigations are not subject to the procedures outlined above for Title IX investigations. Investigations that were initially designated as Title IX investigations but subsequently dismissed will no longer be subject to those procedures as of the date of dismissal.

## E. Determinations

The parties must receive a determination regarding responsibility using the preponderance of the evidence standard. Regardless of the outcome of the investigation, TWC must take steps to prevent the recurrence of sexual harassment and all misconduct covered herein and correct any discriminatory effects on all impacted parties as appropriate.

### **Cases Falling Under Title IX Sexual Harassment–Written Determinations**

After the Title IX coordinator or designee has sent the draft investigative report to the parties, and before reaching a determination regarding responsibility, the decision-maker must:

* give each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness;
* provide each party with the answers to their questions; and
* allow for additional, limited follow-up questions from each party.

The decision-maker may determine that a question is not relevant and will explain to the asking party any decision to exclude questions as not relevant. The decision-maker must issue a written determination regarding responsibility using the preponderance of the evidence standard.

The decision-maker must simultaneously send the written determination in a prompt and equitable manner to inform the parties and their advisors, including the parent and/or guardian of the Respondent and Complainant, of the following:

* + - The section of the policies alleged to have been violated
		- The findings of fact that support the determination
		- The conclusions regarding the application of the findings of fact to the alleged policy violations
		- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions TWC will impose on the Respondent, and whether remedies designed to restore or preserve equal access to the VR-CCRC educational program or activity will be provided by the Respondent to the Complainant
		- A description of the procedures for appeal, including the bases upon which the parties may appeal

## F. Discipline

Employees who violate the Title IX policy are subject to disciplinary action up to and including discharge.

Customers and students who violate the Title IX policy are subject to disciplinary action under the CCRC Student Handbook up to and including removal from the educational program.

Contractors, consultants, or vendors who violate the Title IX policy are subject to removal from and prohibited access to VR and CCRC premises, remedies of law, and/or remedies under their contract, up to and including contract termination.

## G. Resolution Timeframe

Investigations must be completed promptly, although some investigations may take weeks or even months to complete, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, and so on.

The Title IX coordinator or designee must make a good faith effort to complete the resolution process, not including appeals and discipline, within sixty (60) business days. This timeline may be extended for good cause with notice to the parties as appropriate.

## H. Appeal Procedures

The agency must offer both parties the option to appeal from:

* + a determination regarding responsibility; and
	+ the dismissal of a formal complaint or any allegations within the complaint.

The scope of appeal rights is determined based on whether the following factors may have changed the determination outcome:

* + Procedural irregularity
	+ Newly discovered evidence
	+ Title IX personnel conflict of interest or bias

Neither the Title IX coordinator nor the decision-maker may also be the appeals officer.

### Making an Appeal Request

The Complainant and Respondent may appeal a written determination or dismissal of a formal Title IX sexual harassment complaint through a written request, within five business days of receiving a written determination letter or notification of dismissal. Appeals may be made on any of the following grounds, which must be articulated in the appeal:

* + A procedural irregularity that affected the outcome of the matter
	+ New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that may have affected the outcome of the matter
	+ The Title IX coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter

If exigent circumstances exist, then TWC may grant limited extensions. Any party may submit their request in person or by USPS mail to the office address listed below or to the Title IX coordinator.

Upon receiving an appeal, the appeals officer must notify each party in writing and give the parties an equal opportunity to submit a written statement in support of, or challenging, the determination outcome. The appeals officer must receive each party’s response within five business days. All responses and appeals must be shared with all parties.

### Receiving a Decision on an Appeal

The appeals officer must render a determination promptly but no later than 30 business days of receiving the written request for appeal. The 30-day response time frame may be extended for good cause. The appeals officer must notify both parties of the decision and document that notification.

## **I. Recordkeeping**

The Title IX coordinator is responsible for maintaining records related to all Title IX complaints. The records must be maintained for seven years and made available by request for each party.

The records of each complaint may include, but are not limited to, the following information:

* + Relevant information related to the Complainant, Respondent, and identified witnesses
	+ Name and title of the individual who received the complaint
	+ Date, time, nature, and location of the reported incident
	+ Date VR-CCRC became aware of the incident
	+ Date the Title IX coordinator received notice of the incident
	+ Interim and supportive measures and resources offered to the parties
	+ Final investigation reports
	+ Outcome notification letters that were provided to the parties
	+ Disciplinary sanctions issued to any individuals found in violation under these procedures
* All materials used to train coordinators, investigators, decision-makers, and informal resolution facilitators regarding sexual harassment and Title IX procedures

## J. Confidentiality

VR/CCRC customer records are confidential, according to Subsections A-207 through A-209 of the Vocational Rehabilitation Service Manual. In addition, TWC must keep confidential the identity of any individual who has made a report or complaint of sex discrimination in the Title IX context, including any individual who has made a report or filed a formal complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as required by law, or to carry out the purposes of 34 C.F.R. Part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. 34 C.F.R. 106.71(a).

TWC will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The use of a party’s personal health information (PHI) may be necessary during the process of investigating or making final determinations. PHI will not be included in Title IX findings or determinations unless the information is directly related to the allegations. Information may be redacted that is not directly related to the allegations or that is otherwise barred from use, such as privileged information.

# V. LIST OF APPENDICES

A. Appendix A: Student Rights in Investigations

B. Appendix B: Employee Rights in Investigations

## Appendix A

**Student Rights in Investigations**

When the Title IX coordinator learns about alleged sexual misconduct, an investigation must be undertaken. As part of the investigation, the students involved must give their side of the story about what happened. Based on this information, the Title IX investigators must decide if something “more likely than not” happened, and if it did, VR-CCRC must be notified and respond. Students have the following rights:

* The right to have a prompt, thorough, fair, and impartial investigation being conducted
* The right to be heard and to share your experience
* The right to request that the matter be resolved through informal resolution, subject to applicable law (This option is not available when a VR-CCRC employee is the subject of the investigation)
* The right to an advisor of your choice be present during the process, subject to applicable law
* The right to have a support person of your choosing to be in the room with you, subject to applicable law
* The right to let the Title IX investigator know if you do not feel safe
* The right to receive individualized supportive services at your school
* The right to meet somewhere private
* The right to request that the Title IX investigator to keep what you tell as private as possible
* The right to present witnesses, evidence, and information to support your claim, subject to applicable law
* The right to ask for an update on your case
* The right to know the outcome of the investigation
* The right to ask for a review of the outcome of the investigation
* The right to be free from retaliation

## Appendix B

**Employee Rights in Investigations**

VR-CCRC is committed to providing a safe and secure working and learning environment free from discrimination, harassment, and retaliation. When a party files a complaint related to discrimination, harassment, or retaliation, VR-CCRC begins an investigation. The parties related to the complaint have certain rights during the investigation process. Employees’ rights include the following:

* The right to receive a written notice of the investigation
* The right to a prompt, reliable, and equitable resolution of the complaint
* The right to receive individualized supportive services
* The right to be referred to available supportive resources if needed
* The right to have union representation (bargaining unit employees only)
* The right for the process to respect the confidentiality and reputation of all parties to the extent permitted by applicable law
* The right to request that the matter be resolved through informal resolution when appropriate
* The right to present witnesses, evidence, and information to support your position, subject to applicable law
* The right to obtain notification of the time frames for all major stages of the investigation
* The right to be free from retaliation
* The right to file a complaint with a federal, state, or local agency
* The right to receive a written notice of the outcome of the investigation