

## **Victoria College Policy Prohibiting Sexual Violence**

**Purpose and Authority:** Victoria College establishes this policy and related procedures in its continuing effort to seek equity in education and employment, and consistent with its legal responsibility and authority to take measures to address and prevent sexual violence, as required by Title IX of the Higher Education Act of 1964, as amended, and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”), as amended.

This policy is intended to inform students and employees of their rights if they are subjected to sexual violence, including the complaint procedures and support services that a survivor of sexual violence can access. This policy is also intended to inform students and employees of their responsibilities if they are aware that sexual violence has occurred to a Victoria College student or employee.

**Statement of Policy:** Victoria College (the “College”) will not tolerate and strictly prohibits sexual violence, including domestic violence, dating violence, sexual assault and stalking. The College will act to protect its students and employees from incidents of domestic violence, dating violence, sexual assault and stalking committed by employees, students or outside third parties.

**Scope:** This policy applies to and may be used by all students and employees, regardless of gender, sexual orientation or gender identity, to report incidents of sexual violence, including domestic violence, dating violence, sexual assault and stalking occurring on or off campus.

Student and employee grievances and complaints that do not contain allegations of sexual violence are excluded from this process. General student complaints or grievances reflecting a student’s disagreement with the application of a specific College rule, practice and/or policy are processed through the Student Complaint procedure found in the Victoria College Student Handbook. Employee complaints or grievances regarding general terms and conditions of employment are processed through Victoria College Personnel Policy 9.1. Student complaints of discrimination, retaliation, and sexual harassment, that do not contain allegations of sexual violence, are processed in accordance with the Student Harassment and Discrimination policy located in the Victoria College Student Handbook. Employee complaints discrimination, retaliation and sexual harassment that do not contain allegations of sexual violence are processed through Victoria College Personnel Policy 1.2.2.

**Definitions:** The following definitions apply to terms referenced herein.

**Complainant:** The Complainant is the student or employee who initiates a complaint of sexual violence with the Title IX Coordinator/Director of Human Resources. Complainants are not limited to those employees or students who have personally experienced the alleged act of sexual violence, but also those employees or students who may have either received notice of or witnessed the incident.

**Respondent:** The Respondent is the student, employee or outside third party named in a complaint of sexual violence, initiated pursuant to this policy, as having engaged in sexual violence against a College employee or student.

**Title IX Coordinator and Director of Human Resources:** The Title IX Coordinator/Director of Human Resources is the person designated by the College to receive any complaint of sexual violence; assist the Complainant in the use of the complaint form and procedures provided herein; investigate the complaint or identify a designee to conduct the investigation; provide information regarding law enforcement, medical, sexual trauma and counseling resources; provide assistance regarding various internal and external mechanisms through which the complaint may be filed, including applicable time limits, if any, for filing with external agencies and law enforcement agencies.

**Sexual Violence:** As referenced in this policy, sexual violence is defined as an act of sexual assault, stalking, domestic violence or dating violence.

**Sexual Assault:** A person commits a sexual assault if he or she intentionally or knowingly:

- a) causes the penetration of the anus or sexual organ of another person, by any means without the person's consent;
- b) causes the penetration of the mouth of another person by the sexual organ of the actor without the person's consent;
- c) causes the sexual organ of another person, without the other person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person;
- d) causes the penetration of the anus or sexual organ of a child (a person younger than 17 years of age) by any means;
- e) causes the penetration of the mouth of a child (a person younger than 17 years of age) by the sexual organ of the actor;

- f) causes the sexual organ, mouth or anus of a child (a person younger than 17 years of age) to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor.

**Consent:** A sexual act or assault is without the consent of the other person if:

- a) the actor compels the other person to submit or participate by the use of physical force or violence;
- b) the actor threatens physical force or violence against the other person or any person and the other person believes the actor has the present ability to execute the threat;
- c) the actor knows the other person is unconscious or physically unable to resist;
- d) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it;
- e) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring;
- f) the actor has intentionally impaired the other person's ability to appraise or control the other person's conduct by administering any substance without the other person's knowledge;
- g) the actor is a public servant who coerces the other person to submit or participate;
- h) the actor is a mental health services provider, health care services provider or member of the clergy who coerces the other person to submit or participate by exploiting the other person's emotional dependency on the actor.

**Stalking:** Stalking occurs where, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, an actor engages in conduct, including following, where:

- a) the actor knows or reasonably believes the other person will regard the conduct as threatening bodily injury or death for the other person or a member of the other person's family or household, or the commission of an offense against the other person's property;
- b) the actor's conduct causes the other person or a member of the other person's family or household to be in fear of bodily injury,

death or the commission of an offense against the other person's property;

- c) the actor's conduct would cause a reasonable person to fear bodily injury or death for himself or herself, or for member of the person's family or household, or the commission of an offense against the other person's property.

**Domestic Violence:** Domestic violence is any act by a member of a family or household against another member of the family or household, including children, that is intended to result in physical harm, bodily injury, assault or sexual assault, or that is a threat that reasonably places the other member in fear of imminent physical harm, bodily, assault or sexual assault.

**Dating Violence:** Dating violence is any act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault or sexual assault. A "dating relationship" is a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature.

**Retaliation:** A party engages in retaliatory action when he or she engages in revenge or reprisal in response to a complaint of sexual violence. Retaliation occurs when the Respondent personally engages in an act of reprisal or allows others to engage in acts of reprisal on their behalf. Retaliation includes, but is not limited to, threats of harm or injury against the Complainant and, or witnesses; implementation of employment actions meant or designed to harm an employee Complainant or employee witnesses or discourage them from complaining or testifying; adverse grading of student Complainants or student witnesses; or attempts to influence the testimony of witnesses by trying to discuss allegations with the witnesses during the pendency of an investigation and appeal.

**What To Do If You Are A Victim of Sexual Violence:** Students and employees are advised of the following courses of action in the event of an incident of sexual violence.

- a) Your immediate personal safety is of the utmost importance. As soon as possible, following an incident of sexual violence, get to a place of safety.
- b) Contact the police at 911 as soon as possible after the assault has occurred. It is the decision of the person experiencing sexual violence in determining

whether or not to file charges. It is important to note that where a charge is filed with the police, the State covers the cost of medical care provided at the emergency room. If a charge is not filed, the person experiencing sexual violence will be responsible for medical costs incurred. However, when a report is filed, you are NOT obligated to continue with the police criminal justice system or the campus disciplinary action process.

- c) Contact someone you trust to be with you and help you deal with any trauma you are experiencing. If you wish, you may contact the College's Counseling Center to assist you (361-582-2400). After business hours, contact Campus Security at 361-220-1391 or 361-220-1389. Your situation will be handled confidentially.
- d) It will be important to collect and preserve all evidence, where possible, within 24 hours of the attack of sexual violence. For example, do not change clothes or wash or dispose of clothes you were wearing at the time of the sexual violence incident. Do not wash, shower or douche. If a change of clothing is unavoidable, put all clothing you were wearing at the time of the sexual violence incidence in a paper (not a plastic) bag. Until police have investigated the area where the incident occurred and dusted for fingerprints, avoid touching any smooth surfaces that the assailant may have touched.
- e) Document any injury you suffered either by photographing or by showing your injuries to someone you trust.
- f) Seek and obtain medical attention as soon as possible to treat any physical injury and obtain preventative treatment for possible sexually transmitted disease and other health services. Medical providers can also assist with preserving evidence documenting your injuries.
- g) In addition to seeking assistance from law enforcement, you can also take steps to protect yourself from the assailant by staying with friends or family after the act of sexual violence, letting your voicemail record telephone calls and messages, notifying the College of the incident in order to insure the assailant is not allowed to have contact with you while on campus or at campus events.
- h) For assistance with filing a complaint of sexual violence through College complaint procedures, obtaining assistance with accessing law enforcement, and confidential counseling, emotional support, and immediate emergency

services, if not already accessed, students should contact the Title IX Coordinator/Director of Human Resources, Terri Kurtz, at 361-572-6463, for assistance. In addition, students and employees may contact the following for campus and local advocacy, counseling, health, mental health and legal assistance services:

### **Victoria College Resources**

Victoria College Title IX Coordinator/Director of Human Resources  
Terri Kurtz  
Academic Building 104 B  
2200 E. Red River  
Victoria College, Texas 77901  
361-572-6463

Victoria College Advising & Counseling Office  
Student Services Building, Suite 105  
2200 E Red River  
Victoria, TX 77901  
361-582-2400

Victoria College Campus Police & Security  
Academic Building, Suite 210  
2200 E Red River  
Victoria, TX 77901  
Security Duty: 361-220-1391 or 361-220-1389  
Office: 361-582-2406

### **Police and Law Enforcement Departments**

Victoria Police Department (for Victoria Campus)  
206 S. Bridge Street  
Victoria, TX 77901  
361-573-3221

Victoria County Sherriff's Office  
101 N. Glass Street  
Victoria, TX 77901  
361-575-0651

Gonzales Police Department (for Gonzales Center)  
716 St. Paul Street  
Gonzales, TX 78629  
830-672-8686

Port Lavaca Police Department (for Calhoun County Campus and Wilkins  
Industrial Trade Center)  
202 North Virginia  
Port Lavaca, TX 77979  
361-552-3788

Cuero Police Department (Vocational Nursing Campus in Cuero)  
100 N Clinton St  
Cuero, TX 77954  
361-275-3552

Hallettsville Police Department (Vocational Nursing Campus in Hallettsville)  
104 E Fourth Street  
Hallettsville, TX 77964  
361-798-3683

## **Hospitals**

Citizens Medical Center  
2701 Hospital Drive  
Victoria, TX 77901  
361-573-9181

DeTar Hospital Navarro  
506 E San Antonio Street  
Victoria, TX 77901  
361-575-7441

Cuero Community Hospital  
2550 N Esplanade  
Cuero, TX 77954  
361-572-6191

Memorial Medical Center Port Lavaca  
815 North Virginia Street

Port Lavaca, TX 7979  
361-552-6713

### **Community Resources**

Mid-Coast Family Services and Women's Crisis Center  
120 S. Main, Suite 310  
Victoria, TX 77901  
24-Hour Hotline for Domestic Violence:  
361-573-HELP (4357) or 1-800-870-0368  
Office: 361-575-7842  
Contact person: Leticia Lechuga

Gulf Bend Center  
6502 Nursery Drive, Suite 100  
Victoria, TX 77904  
361-575-0611 or 1-800-421-8825  
24 Hour Crisis Hotline: 1-877-723-3422  
Contact person: Lane Johnson

The Harbor (Victims of Domestic Violence, Sexual Assault, Abuse)  
215 W. Railroad  
Port Lavaca, TX 77979  
24-Hour Crisis Hotline 361-552-4357  
Office: 361-552-1982  
Sexual Assault Legal Services & Assistance  
(888)343-4414

Women's Shelter of South Texas  
813 Buford St, Corpus Christi, TX 78404  
(361) 881-8888

National Sexual Assault 24/7 Crisis Hotline (RAINN)  
1-800-656-HOPE (4673)

Stalking Resource Center/ National Center for Victims of Crime  
[www.ncvc.org/SRC/Main.aspx](http://www.ncvc.org/SRC/Main.aspx)

**Filing a Complaint of Sexual Violence:** The College will investigate complaints of sexual violence initiated by College employees and students, as provided herein, pursuant to the following procedures:

### **Preliminary Considerations**

**Informal Consultation and Counseling:** The Title IX Coordinator/Director of Human Resources, on an informal basis, may receive initial inquiries, reports and requests for consultation and counseling. Assistance will be available whether or not a formal complaint is contemplated or even possible. It is the responsibility of the Title IX Coordinator/Director of Human Resources to respond to all such inquiries, reports and requests as promptly as possible and in a manner appropriate to the particular circumstances. An employee or student making an inquiry or seeking assistance need not have personally experienced the incident of sexual violence, witnesses or other parties who receive notice that an incident of sexual violence has occurred can also access assistance or make an inquiry or complaint through the Title IX Coordinator/Director of Human Resources.

Students and employees are advised that the Title IX Coordinator/Director of Human Resources may determine that it is necessary to initiate an investigation and take action to address incidents of sexual violence based solely on information obtained through an inquiry or informal counseling, even in the absence of a formal complaint.

**Confidentiality:** The College understands the confidential and private nature of reports of sexual violence. Upon receiving notice of an incident, or a complaint, the College will take all steps necessary to protect the privacy of the parties, but may, at some point, be required to disclose matters to certain College employees, outside parties or agencies. This section describes for students and employees, the extent to which confidentiality can be maintained.

**Responsible College Employees:** For the purposes of this policy, the College classifies the Title IX Coordinator/Director of Human Resources, faculty members, academic department Chairs, Deans, Vice Presidents, all Administrators with supervisory authority, and members of campus security and police as “responsible employees.” Any of these College employees who receive or become aware of an

incident of sexual violence occurring to a College student or employee are considered to have received notice on behalf of the College and are required to report such information to the Title IX Coordinator/Director of Human Resources. As such, the incidents will be investigated and properly resolved through complaint and appeal procedures delineated herein. Once an investigation is commenced, however, the information will be tightly controlled and only people with a need to know will be told, and information will be shared only as necessary with investigators, adjudicatory decision makers, witnesses and the accused individual (Respondent).

In cases where a Complainant specifically requests that his or her name not be disclosed to the Respondent, or that the College not investigate or seek action against the alleged Respondent, the school will honor the request after discussion with the Complainant and a determination that a safe environment can still be provided for all students, including the Complainant. In these cases, the College will take steps such as increased monitoring and supervision, additional security at the locations or activities where the alleged sexual violence occurred; additional training and disbursement of educational materials to students and employees. Specific steps will be taken to protect the student or employee, including but not limited to, on campus escorts, revised work or classroom schedules, counseling services or referral to counseling services.

**Confidential Counseling and Medical Providers:** Students and employees who wish to maintain incidents as confidential should speak with off-campus private mental health therapists and counselors, private attorneys, physicians, and members of the clergy. These individuals cannot be required or compelled to disclose confidential information provided to them by students or employees who have been subjected to sexual violence.

**Service Providers:** Students and employees who seek assistance through domestic violence shelters, sexual assault crisis agencies and similar services, whose functions are to support and protect survivors and actively promote the creation of safe environments, can expect information to be kept confidential under most circumstances. Pursuant to federal and state law, information regarding incidents of sexual violence will be kept confidential except for use in a criminal

investigation or proceeding in response to a lawfully issued subpoena. However, these service providers are especially adept and trained to protect survivors even in the event that certain information must be provided as part of a criminal investigation.

**Federal Statistical Reporting Obligations:** Federal law requires that certain campus officials report incidents of sexual assault, domestic violence, dating violence and stalking solely for federal statistical reporting purposes. However, all personally identifiable information is kept confidential, but statistical information must be forwarded to campus law enforcement regarding the type of incident and the general location where it occurred for publication in the Campus Security Report.

**Federal Timely Warning Reporting Obligations:** Employees and students who have been subjected to acts of sexual violence should also be aware that federal law requires College administrators issue immediate timely warnings for incidents that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. Under these circumstances, the Complainant's name and other identifying information is not disclosed, but the campus community will still be provided with enough information so that individuals can make safety decisions in light of the immediate danger posed.

**Initiating a Formal Complaint of Sexual Violence:** Complainants should contact the Title IX Coordinator/Director of Human Resources, as soon as possible following the alleged incident of sexual violence, or the date on which the Complainant first knew or reasonably should have known of such act.<sup>1</sup> All such complaints may be submitted on the form provided by the College or in a personal memorandum or letter. However, the complaint need not be put in writing, it is enough for the Complainant to meet with the Title IX Coordinator/Director of Human Resources who can draft a complaint for the Complainant's review and approval. Any written documentation describing the incident will be attached to

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<sup>1</sup> Complainants who may have been unconscious during an act of sexual violence may not learn about the incident until days, weeks or months after the incident occurred. Under these circumstances, Complainants should not hesitate to make a complaint upon learning of the incident.

the College's Complaint of Sexual Violence form and will be used for the initiation of a complaint.

**Elements of a Complaint:** The written complaint shall contain:

- a) The name, local and permanent address(es), and telephone number(s) of the Complainant.
- b) A statement of facts explaining what happened and what the Complainant believes constituted the act(s) of sexual violence in sufficient detail to give each Respondent reasonable notice of what is claimed against him/her. The statement should include the date, approximate time and place where the alleged acts of unlawful sexual violence occurred. If the acts occurred on more than one date, the statement should also include the last date on which the acts occurred as well as detailed information about the prior acts.
- c) The names of any potential witnesses should be provided.
- c) The name(s), and address(es) and telephone number(s) (if known) of the Respondent(s), i.e., the person(s) claimed to have committed the act(s) sexual violence.
- d) Identification of the title and/or status of the persons charged whether student, administration, faculty, or staff.

### **Procedures for Investigation of a Complaint of Sexual Violence**

- a) Upon receipt of a complaint, the Title IX Coordinator/Director of Human Resources, will provide an initialed, signed, date-stamped copy of the complaint to the Complainant. The complaint, together with a statement, shall be documented in a complaint file.
- b) The Title IX Coordinator/Director of Human Resources, or their designee, shall begin a review and investigation of the complaint within 3 working days from the filing of the complaint. Steps will be taken immediately to insure the safety and wellbeing of a Complainant where necessary.
- c) Within 3 working days after the date of filing of the complaint, the Title IX Coordinator/Director of Human Resources will provide

notice that a complaint has been filed, as well as an explanation of the nature of the complaint to the Respondent(s). Alternatively, such notice of the complaint may be given by email or personal delivery, provided such delivery is made by the Title IX Coordinator/Director of Human Resources, and that proper proof of such delivery, including the date, time and place where such delivery occurred is documented.

- d) The Title IX Coordinator/Director of Human Resources shall review all relevant information and interview pertinent witnesses. Both the Complainant and the Respondent(s) shall be entitled to submit oral, recorded, and transcribed statements or other relevant and material evidence to the written record compiled by the Title IX Coordinator/Director of Human Resources. Evidence and, or testimony regarding the Complainant's sexual history with anyone except the Respondent will not be considered.
- e) Victoria College reserves the right to protect individual or community safety and to act as needed on an interim manner pending the resolution of a complaint. This may include but is not limited to the interim suspension of a Respondent, the alteration of a Respondent's or Complainant's course schedule or work schedule, the alteration of a Respondent's or Complainant's work assignment, on-campus escort services by Campus Safety as deemed appropriate or the establishment of no contact/stay away orders.
- f) No later than 30 working days, from the acceptance of a complaint, the Title IX Coordinator/Director of Human Resources shall prepare a summary of findings and recommendation(s), and, where necessary, for further action to be taken with regard to the Respondent. In assessing and resolving the complaint, the Title IX Coordinator/Director of Human Resources shall utilize a preponderance of the evidence standard of review, i.e., it shall be determined whether it is more likely than not that sexual violence occurred.
- g) If the Respondent is an employee of the College, the Respondent's supervisor shall be provided with the summary of findings and recommendations for further action to be taken by the supervisor(s) of the Respondent. If the Respondent is the President, the findings and

recommendations of the Title IX Coordinator/Director of Human Resources shall be submitted to the Board of Trustees for review and action. Where findings are made against the Respondent, sanctions, up to and including termination, shall be assessed by the supervisor or, where applicable, the Board of Trustees at this stage no later than 10 working days of receipt of the summary of findings.

- h) If the Respondent is a student of the College, the Vice President of Student Services shall be provided with the summary of findings and recommendations. Where findings are made against the student, the Vice President of Student Services may take such disciplinary action, up to and including expulsion, against the student as deemed appropriate. Any determination as to the appropriate disciplinary action to be taken with regard to a student Respondent shall be made within 10 working days of the Title IX Coordinator/Director of Human Resources completion of the summary of findings.
- i) No later than 5 working days following the determination of appropriate disciplinary action to be taken, a letter shall be issued by the Title IX Coordinator/Director of Human Resources to the Complainant and the Respondent(s) advising them of the findings of the investigation and the disciplinary action to be taken by the College, if necessary. The letters shall be personally delivered or mailed to the last known address of the Complainant and Respondent. For the purposes of establishing receipt by mail, receipt will be assumed to have occurred within 3 working days of the date the letter was mailed.
- j) Recommended disciplinary actions shall be executed within one working day of a Respondent's failure to file a timely notice of appeal as established by this policy.
- k) In the case of appealing student Respondents whose recommended sanction is expulsion, no final action of expulsion shall be executed until completion of the appeal process where the original recommendation is affirmed. Employee Respondents, whose contracts have not yet expired and are appealing an adverse finding, where dismissal is the recommended sanction, shall not be dismissed until after completion of the appeal process where the original recommendation is affirmed. In those cases, where employee

Respondents are at will or have contracts that are non-renewed and expire during the pendency of the appeal process, these employee Respondents will not be retained pending the outcome of the appeal, but may seek to be reinstated where an original adverse finding is reversed. Any such reinstatement will be in the discretion of the College.

**Appeals:** The Complainant or Respondent may appeal the findings of a complaint of sexual violence, including, where applicable, the determined disciplinary action or sanction.

- a) Within five (5) working days of receiving such notice of findings and, where applicable, disciplinary action, the Complainant or Respondent may appeal the supervisor's and, or Vice President of Student Services' decision. The appeal shall be in writing and provided to the President of Victoria College, notifying the President of the Complainant's or Respondent's request for a hearing. In those cases where the Respondent is the President, or an employee directly supervised by the President, the Board of Trustees decision as to the President, or the President's decision and adoption of findings as to that employee Respondent, shall be appealed to the Board of Trustees in writing, notifying the Board of Trustees of the Complainant's or Respondent's request for a hearing. The request to the Board of Trustees may be delivered to the Title IX Coordinator/Director of Human Resources for effectuation of service.
- b) Where the President receives the notice, the President will give prompt notice to the Title IX Coordinator/Director of Human Resources that the Complainant or Respondent has taken an appeal to the President. Title IX Coordinator/Director of Human Resources shall promptly forward to the President the complete record of the matter, including the investigative file, findings, and recommendations.
- c) Where the decision is appealed to the Board of Trustees, the Board of Trustees will give prompt notice to the Title IX Coordinator/Director of Human Resources that the Complainant or Respondent has taken an appeal to the Board of Trustees. The Title IX Coordinator/Director of Human Resources shall promptly forward to the Board of Trustees the

complete record of the matter, including the investigative file, findings, and recommendations.

- d) Within 10 working days of receipt of the appeal, the President or the Board of Trustees shall appoint an independent arbitrator, licensed to practice law within the State of Texas, to review the case and conduct such hearing as specified herein. The investigative file, findings, recommendations and notices of appeal shall be forwarded to the independent arbitrator.
- e) The hearing shall be held within fifteen (15) working days after appointment of the independent arbitrator, unless the parties mutually agree to a delay for good cause. Notice of the appointment, and the date, time and location of the hearing shall be provided to the Complainant and Respondent by the independent arbitrator.
- f) Documents and identity of witnesses to be relied upon by the Complainant and Respondent(s), during the hearing, shall be provided to the independent arbitrator no later than 10 working days prior to the hearing. The independent arbitrator will forward the documents and list of witnesses of each respective party to the other party on the same day of receipt.
- g) The Complainant and Respondent may each be represented by a person designated in writing to act for them. Notice, at least five (5) working days in advance of the hearing, shall be given by each party intending to be represented, including the name of the representative, to the independent arbitrator in writing.
- h) The hearing shall be conducted privately. Only the independent arbitrator, Complainant, Respondent, their representatives and a testifying witness may be present. Witnesses shall be excluded from the hearing until it is their turn to present evidence. In the event witnesses, the Complainant and, or the Respondent feel uncomfortable being physically present in the room, accommodation shall be provided by allowing the party or witness to participate by video conferencing.
- i) The independent arbitrator shall control the conduct of the hearing, the general order of which shall be as follows:

- 1) The Complainant or Respondent appealing the matter shall present such proof by documents and witness testimony that the appealing Complainant or Respondent desires to offer to challenge the findings and, or disciplinary action determined by the College through the investigatory process.
- 2) Upon such offer of proof, the non-appealing Complainant or Respondent, or their representative, may cross-examine any witnesses presented by the appealing party.
- 3) Once the Complainant or Respondent who appealed the matter has presented his or her witnesses and documentary evidence, the non-appealing Complainant or Respondent may then rebut the appealing party's arguments, documents and testimony through the presentation of witnesses and documentation of their own.
- 4) Upon such offer of proof on rebuttal, the appealing Complainant or Respondent, or their representative, may cross-examine any witnesses presented by the non-appealing Complainant or Respondent.
- 5) In the case where either the Complainant or Respondent is providing testimony, only the independent arbitrator may cross-examine and ask additional questions. The representatives for the Complainant or Respondent may provide the independent arbitrator with areas of knowledge or questions they believe relevant to the disposition of the matter.
- 6) At any time during the examination or cross-examination of any witness, the independent arbitrator may ask his or her own questions in order to obtain additional information he or she believes is relevant to disposition of the case.
- 7) In those cases where the parties have failed to identify the Title IX Coordinator/Director of Human Resources as a witness, the independent arbitrator may ask that the Title IX Coordinator/Director of Human Resources provide testimony regarding their investigation and findings.

8) Questioning or evidence about the Complainant's sexual history with anyone except the Respondent shall not be permitted.

8) Closing arguments may be made by each party or their representatives.

- j) A transcription of the hearing shall be made.
- k) The independent arbitrator shall render a decision within ten calendar (10) days after completion of the hearing and deliver a copy to the Complainant, Respondent and either the President or Board of Trustees who appointed him or her as independent arbitrator. In rendering his or her decision, the independent arbitrator shall utilize a preponderance of the evidence standard of review, i.e., it shall be determined whether it is more likely than not that sexual violence occurred. The independent arbitrator shall deliver the decision by U.S. Mail and receipt will be assumed to have occurred three working days after the date the decision was mailed.
- l) Within 3 working days of receipt of the independent arbitrator's decision, the Complainant or Respondent may appeal the matter to the Board of Trustees who will schedule the matter for presentation at the next scheduled Board of Trustees meeting. The Board of Trustees shall be provided the record on appeal by the independent arbitrator. The presentations shall be heard in closed session and only the Board of Trustees, their attorney, and the Complainant and the Respondent, as well as their attorneys or representatives shall be present.
- m) The Board of Trustees shall issue its decision no later than 5 working days after presentation of the appeal. The Board's decision shall be final.

**Timely Notice of Appeal:** If at any time during the appeal process the Complainant or Respondent fails to provide timely notice of appeal; the decision of the supervisor, the Vice President of Student Services, or the Board of Trustees shall be final.

**Other Policies Not Applicable:** Unless expressly referenced in this policy, the requirements of any other policy or provision relating to rights or procedures for

filing and hearing of a grievance or an appeal, or specifying a time within which a grievance or appeal must be filed or heard, are overruled as inapplicable to sexual violence complaints.

**Extension of Time Limits:** During the pendency of the investigation and appeal process, any party may request an extension of time limits stated herein to deal with emergent exigencies. A request for an extension of time limits shall be submitted to and approved by the College President during the investigation stage, or the independent arbitrator during the appeal stage. If the President is the Respondent, any such request must be made to the Board of Trustees. All parties must be advised of any approved request by the party granting the request.

**Filing Externally:** The Complainant is free to access assistance through appropriate state or federal agencies at any point during a complaint, investigation or appeal process. The Title IX Coordinator/Director of Human Resources will provide general information on state and federal guidelines and laws, as well as names and addresses of such agencies who can assist with such matters as filing criminal charges and obtaining protective orders.

**Freedom from Reprisal or Retaliation:** Complaints involve sensitive student and personnel matters. All parties involved in a complaint shall take the process seriously and respect the rights of privacy of the Complainant, the Respondent, the reviewer(s), and any witnesses or parties engaged in the complaint process. There will be no retaliation, interference, or harassment toward any party to a complaint. Should a Complainant, Respondent or witness experience any reprisal or retaliation during the pendency of a complaint pursuant to this section, the party should immediately report the retaliatory action to the Title IX Coordinator/Director of Human Resources. The complaint will be investigated and action will be taken pursuant to the complaint, investigation and appeal procedures in the Victoria College Policy Prohibiting Sexual Violence.

**Victoria College Educational Programs and Resources:** In addition to assisting students and employees with complaints, the College continues to take steps aimed at reducing or eliminating sexual violence by offering or making available the following resources and educational program to students and employees:

Sexual Violence Awareness Prevention Workshops/Trainings (including rape, acquaintance rape, or other sex offenses, forcible or non-forcible)

Bystander Training

## Alcohol and Other Drug Abuse Prevention Workshop/Trainings

### Title IX Workshops/Trainings

Students and employees may also obtain written information on the topics listed above, as well as published crime statistics. Students have the opportunity for on-campus confidential counseling, and referral for treatment to off-campus, community-based counseling services.