



*Grievance Committee  
Training: Harassment  
& Discrimination - 2024*

**Hampden-Sydney College**



# TOPICS TO BE COVERED

- Session 1
- HSC prohibitions on harassment and discrimination – including sexual misconduct
- Discrimination defined
- Title IX of the Higher Education Amendments Act of 1972
- Sexual Harassment and Sexual Misconduct
- The College's responsibilities under federal discrimination law
- Reporting HDSM -- Options
- The Complaint Resolution Process
  - Intake
  - Investigation
  - Informal Resolution
- Session 2
- Formal Complaint Resolution – Hearings
- Hearing panel report
- Role of sanctions
- Appeals

# HSC PROHIBITS HARASSMENT & DISCRIMINATION BASED ON:

- Race and/or Color
- National Origin or Ethnicity
- Religion
- Age (over 40)
- Disability
- Genetic Information
- Familial Status (e.g., parent or not, married or unmarried)
- Veteran's Status
- Pregnancy
- Sex
- Sexual Orientation
- Gender Identity
- Gender Expression

# DISCRIMINATION

- Inequitable treatment that occurs because of an individual's actual or perceived membership in one or more of the protected categories listed in the College's non-discrimination statement; and
- Which has the effect of excluding an individual from participation in, denying an individual the benefits of, or otherwise adversely affecting a term or condition of an individual's employment, education, living environment, or participation in a College educational program or activity.

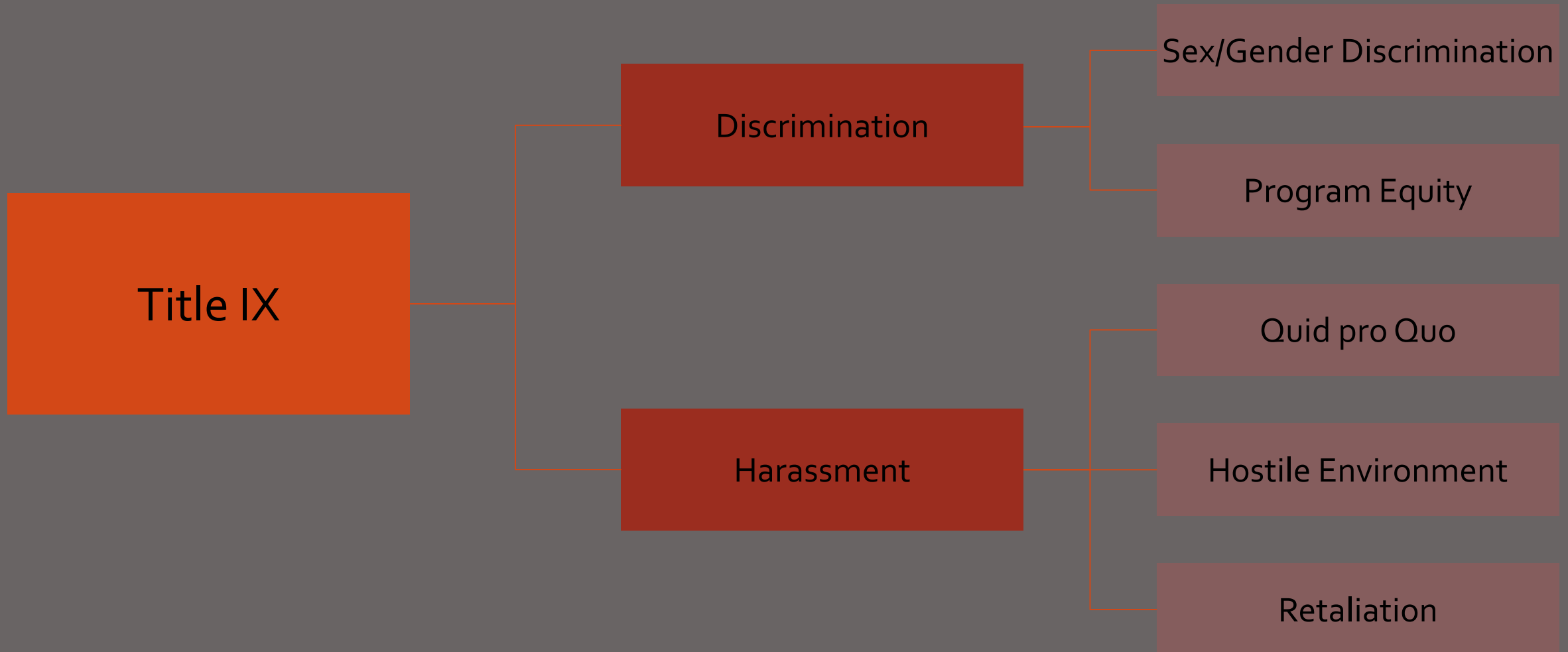
# TITLE IX

20 U.S.C. § 1681 & 34 C.F.R. PART 106 (1972)

- “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.”



# TITLE IX/HARASSMENT & DISCRIMINATION



# SEXUAL MISCONDUCT

- Conduct of a sexual nature that a reasonable person would find to be so severe, or pervasive, and objectively offensive that it effectively denies a person equal access to the College's educational programs or activities.
- Conduct can be verbal, visual, or physical – e.g., use of sexual slurs, unwelcome sexual touching, and non-consensual sexual intercourse.
- Unwelcome verbal, visual, or physical conduct, not necessarily of a sexual nature, that a reasonable person would find to be so severe, or pervasive, and objectively offensive that it effectively denies a person equal access to the College's educational programs or activities, and that is perpetrated because of the target individual's sex.

# WHAT IS SEXUAL HARASSMENT?

- Sexual Harassment encompasses specific types of Sexual Misconduct
  - Sexual Harassment – Hostile Environment
  - Sexual Harassment – Quid Pro Quo
  - Sexual Assault
  - Dating and Intimate Partner Violence
  - Stalking



# SCOPE AND JURISDICTION

- H-SC's Harassment, Discrimination, and Sexual Misconduct Policy (HDSM) applies...
- Who: Students, Faculty, Staff, others affiliated with H-SC (e.g., vendors, applicants for admission)
- What: Any sexual misconduct/sex discrimination (sexual harassment, sexual assault, domestic/intimate partner and dating violence, and stalking) and other forms of harassment and/or discrimination based on any protected category
- Where: On and off campus (e.g., May Term, field trips), and online
- Why: Protects equal access to educational opportunities

# H-SC'S RESPONSIBILITIES UNDER HDISM

- Eliminate discrimination & harassment (e.g., sexual misconduct)
- Prevent recurrences
- Remedy the effects
- \*\*\*\*\*
- Provide supportive measures
- Investigate promptly
- Complaint Resolution

# APPLICABLE PROCEDURES FOR COMPLAINT RESOLUTION

Type of Misconduct	Applicable Procedure
Criminal Misconduct (e.g. sexual assault)	College Administrative Procedures <u>and/or</u> Criminal Justice System
Non-criminal Misconduct (e.g. verbal harassment)	College Administrative Procedures

# CONFIDENTIAL SUPPORT AND RESOURCES

## On Campus

- Campus Counseling Center – licensed staff – 434.223.6167
- Campus Pastor – 434.223.6169
- Student Health Services – licensed staff – 434.223.6411
- Certified Athletic Trainers – 434.223.6237

## Off Campus

- Prince Edward County Victim/Witness Assistance Program - 434-315-0065
- Virginia Sexual and Domestic Violence Action Alliance – 1-800-838-8238
- National Sexual Assault Hotline – 1-800-656-4673



# WHAT HAPPENS AFTER A REPORT OF A HDSM POLICY VIOLATION

- The options available for the procedural process can be found in the policy: <https://www.hsc.edu/discrimination-and-misconduct>
- The Title IX Coordinator or Deputy Coordinator (i.e., *Assigned Coordinator*) is analogous to a *traffic cop* – making sure each step is executed properly and in a timely manner.
  - Inquiry/assessment of information behind a potential complaint
  - Intake Meetings with Title IX or Deputy Title IX Coordinator
  - Supportive Measures Offered
  - Formal Complaint Filed
  - Investigation
  - Informal Resolution (Mediation) or Formal Resolution (Hearing)
  - Appeal (Hearing only)

# WHEN DO WE INVESTIGATE?

- Upon receipt of a formal complaint – complaints channeled to the Title IX Coordinator.
- When a college-driven investigation has been authorized.
- Rumors, gossip, social media, etc.?
  - Investigating on these bases is discretionary (but often recommended)
- Once actual notice/knowledge exists, the duty to investigate is absolute.
- *Actual knowledge* – a mandatory reporter knows of a potential policy violation. (*Constructive knowledge*: should have known.)

# INVESTIGATION: FIRST STEPS

- The Assigned Coordinator selects at least two Investigators from a pool of staff and tenured faculty professionally trained to investigate complaints of HDSM.
- If a faculty member is the Respondent, at least two members of the investigation team will be tenured faculty.
- Internal Investigators may be assisted by a professional, external Investigator contracted by the College.
- The Assigned Coordinator shares the Investigators' names and contact information with the Complainant and the Respondent. Both parties have 2 days to request substitute investigators due to a perceived bias or conflict of interest.
- The Assigned Coordinator shares the Complaint with the designated Investigators.

# STEPS OF A PROMPT, THOROUGH, & IMPARTIAL INVESTIGATION – 1

- Make a investigative plan.
- Interview the Complainant, the Respondent, third-party witnesses, or experts with all interviews summarized in writing.
- The Complainant and Respondent may each present evidence, either inculpatory or exculpatory, as well as identify fact or expert witnesses.
- Both the Complainant and the Respondent may be accompanied during their interviews by an Advisor of their choice, who may be an attorney. If present, Advisors will only confer with the party they are accompanying and will not speak to the Investigators.
- Interviewees will be notified of the date, time, location, and purpose of the interviews. They will be also be given adequate time to prepare to participate.



# STEPS OF A PROMPT, THOROUGH, & IMPARTIAL INVESTIGATION – 2

- Investigators may visit, inspect, and take photographs at sites relevant to the Complaint – both on- or off-campus.
- Investigators collect and preserve relevant evidence – including electronic records and social media.
- Pauses in the investigation necessary to accommodate a criminal investigation will be brief, usually no more than 7 days.
- Investigators may review relevant student or employee personnel files.
- Investigators will not seek any records for the Complainant or the Respondent that are made or maintained by a physician, psychiatrist, psychologist, or other professional or paraprofessional acting in their professional or paraprofessional capacity. Either the Complainant or Respondent may elect to share such records.

# STEPS OF A PROMPT, THOROUGH, & IMPARTIAL INVESTIGATION – 3

- In a Complaint against a faculty member, the Investigators will consider whether the charges in the complaint arise from conduct that is protected under the faculty member's rights to Academic Freedom, as stated by the American Association of University Professors in *The 1940 Statement of Principles on Academic Freedom and Tenure*. Academic Freedom never provides protection for acts of violence.
- If facts discovered during the investigation indicate that additional allegations should be added to, or deleted from the Complaint, the Assigned Coordinator will provide simultaneous written notice of the amended allegations to both the Complainant and Respondent.
- The Assigned Coordinator will ensure that the burden of gathering evidence sufficient to reach a determination regarding responsibility for the allegations in the complaint rest on the College and not on the Complainant or Respondent.

# INVESTIGATIVE REPORT

- The Investigators write a detailed report that includes the evidence collected. The investigative report is a factual report of evidence collected, including interview summaries.
- The investigative report does not draw a conclusion of whether or not a preponderance of the evidence supports the Complaint.
- The investigative report is submitted to the Assigned Coordinator who shares it with both the Complainant and Respondent. Both parties have 10 days to submit a written response or supply additional information to the Assigned Coordinator, who shares it with the Investigators.
- The Investigators may amend and/or supplement the report based on that information. The Investigators will then provide the Assigned Coordinator with the Final Investigative Report.

# SHARING THE INVESTIGATIVE REPORT WITH THE COMPLAINANT & RESPONDENT

- The Assigned Coordinator meets separately with the Complainant and the Respondent to share a written electronic or hard copy of the final investigative report, which may also be shared with each party's Advisor.
- The Complainant and Respondent have 10 days to review and comment on the final investigative report.
- The Assigned Coordinator may opt to dismiss the formal complaint, or a subset of the allegations after the investigation is completed if circumstances prevent the College from gathering sufficient evidence to reach a determination regarding the allegations of the formal complaint, or if the Respondent is no longer enrolled at or employed by the College.



# INFORMAL RESOLUTION - MEDIATION

- Informal Resolution is permitted only if:
  - Both the Complainant and Respondent are 18 or older
  - The Complaint is not between a student and a faculty or staff employee
  - Participation of Complainant and the Respondent is voluntary
  - The Assigned Coordinator determines the process is appropriate for Complaint resolution.
- Either party may terminate the informal resolution process at any time and proceed with the formal resolution process.
- If the Assigned Coordinator determines that the process is not moving towards an effective resolution of the Complaint, the Assigned Coordinator may terminate it and proceed to the formal resolution process.

# THE MEDIATION PROCESS

- Conducted by a trained Mediator approved by both parties to the Complaint.
- The Complainant and Respondent don't contact each other outside of mediation.
- Attendance at scheduled mediation meetings is mandatory. Failure to attend will result in termination of the informal resolution process. The formal resolution process will then begin.
- Both the Complainant and the Respondent may be accompanied by their Advisor. The Advisor will not speak to the Mediator, or to the other party.
- If the mediation results in a resolution between the parties, the Assigned Coordinator reviews it to determine if the resolution will prevent reoccurrence of HDSM and if it will remedy the effects of HDSM that may have occurred. If the resolution is approved, the informal process ends and the Complaint is closed.

# TALK TO A TITLE IX TEAM MEMBER

- Dr. Melissa Wood – Title IX Coordinator  
mwood@hsc.edu - 434.223.6061
- Mrs. Sue Carter (staff and students)  
svcarter@hsc.edu – 434.223.6220
- Dr. Rebecca Jayne (faculty)  
rjayne@hsc.edu – 434.223.6118