



## **2024 Annual Security Report**

*January 1, 2023 through December 31, 2023*

The Clery Act and the United States Department of Education's regulations require Title IV participating institutions to publish an annual security report containing safety and security related policy statements and crime statistics and distribute it to all current students and employees.

This report will be distributed to employees and students via KBOCC issued email by October 1 of each year. Records of distribution dates will be maintained by the Dean of Student Services. The report will also be posted on the KBOCC website, at the Niiwin Akeaa Center, KBOCC Library, and Student Lounge at the Wabanung Building.

KBOCC will not charge a fee for copies of the Annual Security report.

Crime statistics are reported for KBOCC buildings and property, public property within or adjacent to the campus, and any other locations in which a class or other college activity is regularly held. KBOCC does not have on-campus student housing. The U.S. Department of Education Handbook for Campus Crime Reporting identifies public property as "...thoroughfares, streets, sidewalks, and parking facilities that is within the campus, or immediately adjacent to and accessible from the campus." It does not include surrounding property that is not owned or controlled by the institution, including private residences and businesses.

Addresses for the buildings identified in the crime statistic tables are:

**PELKIE, MI**

KBOCC Arts & Agricultural Center  
15211 Pelkie Rd.  
Pelkie, MI 49958

**L'ANSE, MI**

KBOCC Wabanung Building  
770 N. Main Street  
L'Anse, MI 49946

**BARAGA, MI**

Niiwin Akeaa Center  
111 Beartown Rd.  
Baraga, MI 49908

**OCC Childcare**

651 N Main St  
L'Anse, MI 49946

**KBOCC Little Eagles**

809 Louis St.  
L'Anse, MI 49946

Crime Statistics for Calendar Year 2023\*

TYPES OF INCIDENTS	ON-CAMPUS Niiwin Akeaa Center 111 Beartown Rd. Baraga, MI	ON-CAMPUS Arts & Agricultural Center 15211 Pelkie Rd. Pelkie, MI 49958	ON-CAMPUS Wabanung Campus 770 N. Main Lanse, MI	ON-CAMPUS KBOCC Little Eagles 809 Louis St. Lanse, MI	ON-CAMPUS OCC CHILDCARE 651 N. Main St. Lanse, MI	HATE CRIMES* (Record if one of the incidents involved a category listed below.)	TOTAL
Aggravated Assault	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0
Dating violence	0	0	0	0	0	0	0
Domestic Violence	0	0	0	0	0	0	0
Drug Abuse Violation	0	0	0	0	0	0	0
Intimidation **	0	0	0	0	0	0	0
Larceny - Theft **	0	0	0	0	0	0	0
Liquor Law Violation	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0
Murder/Non-Negligent Manslaughter	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0
Sex offenses - forcible	0	0	0	0	0	0	0
Sex offenses - nonforcible	0	0	0	0	0	0	0
Simple Assault **	0	0	0	0	0	0	0
Stalking	0	0	0	0	0	0	0
Vandalism, Damage or Destruction of Property	0	0	0	0	0	0	0
Weapon Possession	0	0	0	0	0	0	0

Crime Statistics for Calendar Year 2022\*

	On Campus Niiwin Akeaa Center	Off-Campus Woodworking Shop	On-Campus Wabanung	Off-Campus OCC Childcare	Adjacent Public Property	Hate Crime Category
Aggravated Assault	0	0	0	0	0	0
Arson	0	0	0	0	0	0
Burglary	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0
Murder/Non-negligent Manslaughter	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Sex offenses- forcible	0	0	0	0	0	0
Sex offenses-non- forcible	0	0	0	0	0	0
Domestic Violence	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0
Stalking	0	0	0	0	0	0
Larceny-Theft***	0	0	0	0	0	0
Simple Assault***	0	0	0	0	0	0
Intimidation***	0	0	0	0	0	0
Vandalism, Damage, Destruction	0	0	0	0	0	0
Liquor Law	0	0	0	0	0	0
Liquor Law Violation –Campus Disciplinary Action	0	0	0	0	0	0
Drug Abuse Violation –Arrest	0	0	0	0	0	0
Drug Abuse Violation – Campus Disciplinary Action	0	0	0	0	0	0
Weapon Possession– Arrest	0	0	0	0	0	0
Weapon Possession – Campus Disciplinary Action	0	0	0	0	0	0

\*Compiled from Keweenaw Bay Indian Community Tribal Police, Michigan State Police, Baraga Village Police Department, L’Anse Village Police Department, and KBOCC Student Services Crime Log.

\*\*Hate Crime categories: race, gender, religion, sexual orientation, ethnicity/national origin, disability

\*\*\*Reported only if considered a “hate crime”

Crime Statistics for Calendar Year 2021\*

	On Campus Niiwin Akeaa Center	Off-Campus Woodworkin g Shop	On-Campus Wabanung	Off-Campus OCC Childcare	Adjacent Public Property	Hate Crime Category
Aggravated Assault	0	0	0	0	0	0
Arson	0	0	0	0	0	0
Burglary	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0
Murder/Non-negligent Manslaughter	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Sex offenses- forcible	0	0	0	0	0	0
Sex offenses-non- forcible	0	0	0	0	0	0
Domestic Violence	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0
Stalking	0	0	0	0	0	0
Larceny-Theft***	0	0	0	0	0	0
Simple Assault***	0	0	0	0	0	0
Intimidation***	0	0	0	0	0	0
Vandalism, Damage, Destruction	0	0	0	0	0	0
Liquor Law	0	0	0	0	0	0
Liquor Law Violation –Campus Disciplinary Action	0	0	0	0	0	0
Drug Abuse Violation –Arrest	0	0	0	0	0	0
Drug Abuse Violation – Campus Disciplinary Action	0	0	0	0	0	0
Weapon Possession– Arrest	0	0	0	0	0	0
Weapon Possession – Campus Disciplinary Action	0	0	0	0	0	0

\*Compiled from Michigan State Police, Baraga Village Police Department, L’Anse Village Police Department, Baraga County Sheriff’s Department, KBIC Police Department, MI State Police, and KBOCC Student Services Crime Log.

\*\*Hate Crime categories: race, gender, religion, sexual orientation, ethnicity/national origin, disability

\*\*\*Reported only if considered a “hate crime”

## CAMPUS SAFETY AND SECURITY POLICIES

The Dean of Student Services, President, and Maintenance Supervisor are designated as the Campus Security Authority (CSA) for KBOCC. Students, staff, guests, and community members are encouraged to contact the CSA at 906-524-8517 or 906-524-8501 to report on-campus criminal offenses, to assist KBOCC in accurately assessing and reflecting campus crime. Individuals are also encouraged to contact law enforcement, especially in an emergency situation.

### **1. Provide a statement of current campus policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus.**

#### **a. Policies for making timely warning reports to members of the campus community regarding the occurrence of Clery Act crimes.**

In the event that a situation arises, either on or off campus, that in the judgment of the emergency contact constitutes an ongoing or continuing threat, a campus-wide “timely warning” will be issued. The Campus Security Authority (CSA) or other designated emergency contact is responsible for coordinating Timely Warnings.

Timely warnings will be disseminated via e-mail and posted on the KBOCC website.

To ensure the safety of the campus community, a timely warning will be issued to the campus community for on-campus alleged offenses covered under the Clery Act if:

- The allegation is reported to the campus security authority or a law enforcement agency;
- It occurs in the designated campus area per Clery Act; and
- It is considered to represent a serious threat to students and staff.

Factors considered in determining if a crime is considered to be a serious threat include:

- Reviewing the nature of the crime – does this appear to be a one-time, isolated incident, vs. a potential recurring crime; and
- If the perpetrator was apprehended.

The CSA may consult with local law enforcement when issuing timely warnings and updated warnings as warranted.

Timely warnings will include the following:

- Date of the warning
- Summary of type of crime reported and where it occurred to warrant the warning. This information is generated from a “Security Office” report and is not a violation of FERPA
- Recommended strategies to stay safe

*Documentation of Timely Warnings is kept in the Dean of Student Service’s Office.*

#### **b. Policies for preparing the annual disclosure of crime statistics.**

CSA contacts local law enforcement officials and compiles the Clery crime statistics information for the campus. These statistics are summarized and disseminated on campus. The CSA receives notification from law enforcement if contacted about a crime on campus, especially if the crime poses a threat to students.

Documentation of phone calls, letters and emails sent are kept to show contact has been made with law enforcement authorities. CSA also makes contact with other staff in the college to ensure that no reported

offenses go uncounted.

The CSA keeps a log documenting Clery- reportable offenses that are reported to his/her office. Statistics will also be compiled for campus arrests and referrals due to liquor law violations, drug abuse violations, and weapons violations. If two or more offenses are committed during a single incident, KBOCC will utilize the FBI's UCR hierarchy rule and reflect the most serious offense in the crime statistics. The exception to this rule is arson – this offense must be counted each time, and all hate crime offenses must be counted. For purposes of reporting crime statistics, KBOCC will not distinguish between a crime and an attempted crime. No personal identifiers will be used in statistical reports – only the type of offense that was committed or attempted.

**c. A list of title of each person or organization that the students and employees should report criminal offenses as described in the law for the purpose of making timely warning reports and the annual statistical disclosure. This statement must also disclose whether the institution has any institutional policies or procedures that allow victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual security report.**

KBOCC will issue timely warnings to the campus community in the event of violent crimes or emergencies which represent a serious or continuing threat to the campus. The authority to issue a notification rests with:

- KBOCC President—Lori Ann Sherman
- A member of the Board of Regents - if KBOCC President is unavailable
- Dean of Instruction—Megan Haataja
- Dean of Student Services—Amanda Nordstrom
- Maintenance Supervisor—Jeff Mayo

To report a crime dial Keweenaw Bay Indian Community Tribal Police at (906) 353-6626.

If there is an immediate life-threatening danger to the campus community, call 911.

KBOCC does not have an anonymous reporting policy for crime statistics.

## **2. Provide a statement of current policies concerning:**

- a. Security of and access to campus facilities, including campus residences; and**
- b. Security considerations used in the maintenance of campus facilities.**

KBOCC buildings are locked at all times, with the main entrance being the Student Services entrance. Students, staff and faculty are required to have KBOCC issued keycards to enter the building.

If a student has a safety concern, he or she can bring this to the attention of any KBOCC employee on site. Employees are to immediately call the tribal police as needed to assist students and employees whose safety is a concern.

KBOCC has security cameras at the Wabanung Center, Arts & Agricultural Center, OCC Childcare and KBOCC Little Eagles with postings to inform the public that the premises are monitored to minimize potential threats against others or property.

**3. Provide a statement of current policies concerning campus law enforcement, including:**

**a. The law enforcement authority of campus security personnel.**

KBOCC does not have a campus security office. The Dean of Student Services, President and Maintenance Supervisor are designated as the Campus Security Authority for the college and coordinates services in conjunction with KBIC Tribal Police and other local law enforcement agencies.

**b. The working relationship of campus security personnel with state and local law enforcement agencies, including whether the institution has agreements with such agencies, such as written memoranda of understanding, for the investigation of alleged criminal offenses.**

KBOCC does not have a memorandum of understanding with any law enforcement agency, but the Campus Security Authority consults with the Tribal Police Chief on crime reporting, policies, and coordinating emergency situations. KBOCC relies primarily on the Keweenaw Bay Indian Community Tribal Police to patrol the KBOCC campus as a part of their routine patrol of tribal buildings, programs, and facilities on the L'Anse Reservation. Other law enforcement agencies may also be contacted as well, including the 911 dispatch, which is administered by the Michigan State Police, and dispatches to the local law enforcement agencies, including the Tribal Police.

Sex Offender and Notification Act (SORNA): Visiting the Keweenaw Bay Indian Community Sex Offender Registry is a good way to stay informed about the identities and locations of registered sex offenders in the area. Signing up for community notification allows the registry to contact you by e-mail when an offender moves into your area, or changes a home, work, or school address. For more information, please visit [kbic.nsopw.gov](http://kbic.nsopw.gov) (local) or the national site at [www.nsopw.gov](http://www.nsopw.gov)

KBOCC staff will work with local law enforcement when a campus crime is being investigated.

**c. Policies which encourage accurate and prompt reporting of all crimes to campus police and the appropriate law enforcement agencies.**

Students and employees are encouraged to report all criminal acts on campus promptly to 911 and/or Village of L'Anse or Keweenaw Bay Tribal Police.

**d. A description of procedures, if any, that encourage pastoral counselors and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.**

KBOCC does not employ either pastoral or professional counselors who are bound by confidentiality. KBOCC's Dean of Student Services or Student Support Coordinator can help refer students to appropriate agencies.

**4. Provide a statement that describes the type and frequency of programs designed to inform students and employees about campus security procedures and practices to encourage students and employees to be responsible for their own security and the security of others.**

KBOCC conducts a fire drill at least once per semester. Fire drills provide an opportunity for students, and employees to practice evacuating and identifying deficiencies and opportunities for improvement. All

drills are supervised by the Maintenance Supervisor and documented on the College's Fire Drill Report form.

During the required orientation for all new students, students are provided information on safety and security, crime statistics, how to contact the Keweenaw Bay Indian Community Tribal Police and what to do during an emergency.

The emergency number (911) for Baraga County is provided in the KBOCC Student Handbook.

**5. Provide a description of programs designed to inform students and employees about the prevention of crimes.**

KBOCC offers crime prevention programs and brochures to students and employees concerning such topics as theft prevention, sexual assault awareness, alcohol abuse, and drug abuse.

KBOCC works with the Keweenaw Bay Indian Community tribal police and other relevant agencies in securing appropriate written material and presenting programs.

Students and employees are provided crime awareness and prevention tips through their Canvas portal, brochures and handouts that are available in the student lounge. Crime prevention presentations can be available upon request by calling the Dean of Instruction at 906-524-8313.

**6. Provide a statement of policy concerning the monitoring and recording, through local police agencies, of criminal activity in which students engaged at off-campus locations of student organizations officially recognized by the institution, including student organization with off-campus housing facilities.**

Coordination with local law enforcement is not applicable since no student organizations have off-campus facilities.

**7. Provide a statement of policy regarding the possession, use and sale of alcoholic beverages and enforcement of state underage drinking laws; AND Provide a statement of policy regarding the possession, use and sale of illegal drugs and enforcement of federal and state drug laws.**

KBOCC complies with the Drug Free Workplace Act of 1988 and the Drug Free Schools and Communities Act Amendments of 1991.

*It is the policy of Keweenaw Bay Ojibwa Community College that students, employees, and visitors on campus or participating at a college sanctioned event are alcohol and drug free. It is the responsibility of all students and employees to be aware of the policy, laws, and sanctions.*

The following behaviors constitute a violation of this policy:

- Consumption, possession, distribution, sale, or exchange of any alcoholic beverages or alcohol-based products on college property.
- Use of tobacco, (other than for ceremonial purposes) other than in a designated smoking area.
- Use of e-cigarettes or vaporizers other than in a designated smoking area.



- Use, possession, sale, distribution, exchange, or manufacture of any illicit drug, including marijuana.
- Possession of drug paraphernalia.
- Reporting to campus or to a campus-sponsored activity while under the influence of alcohol, marijuana, illicit drugs, or abuse of a prescription drug.
- Reporting to campus or campus-sponsored activity with a noticeable odor of alcohol or marijuana.

Persons taking prescription drugs or over-the-counter medication are responsible for ensuring that they take such medication in a way that does not put them or others at risk while on college property, or while driving a college owned or privately-owned vehicle while involved in college activities or business.

Any violation of this policy will result in disciplinary action (consistent with Federal, State, and Tribal law), and may include expulsion or termination of employment and/or referral for a rehabilitation program or prosecution. Visitors who violate this policy may be mandated to leave the premises. Law enforcement may also be contacted, if warranted.

**8. Provide a description of any drug or alcohol abuse education programs as required under Section 120(a) through (d) of HEA. For the purpose of meeting this requirement, an institution may cross-reference the materials it uses to comply with Section 120(a) through (d) of HEA.**

A copy of KBOCC's Drug and Alcohol Abuse Prevention policy will be distributed annually to each employee and student. New employees and new students will receive the information during orientation. Records of distribution dates will be maintained by the Human Resources (for employees) and Records office (for students) who receive notification. The information will also be distributed to current students and employees via KBOCC issued email.

**9. Provide a statement that the institution will, upon written request, disclose to the alleged victim of a crime of violence (as that term is defined in section 16 of title 18, United States Code), or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime of offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.**

KBOCC will, upon written request, disclose to the alleged victim of a crime of violence, or a non-forcible sex offense, the results of any disciplinary hearing conducted by the college against the student who is the alleged perpetrator of the crime or offense. If the alleged victim is deceased as a result of the crime or offense, KBOCC will provide the results of the disciplinary hearing to the victim's next of kin if so requested.

**10. Provide a statement of policy regarding your institution's emergency response and evacuation procedures.**

Keweenaw Bay Ojibwa Community College maintains emergency procedures for each of its buildings. The procedures are reviewed and updated at least every three years or as needed to accommodate changes in buildings, personnel, or regulations. The policy is summarized in the *Student Handbook* and the *Campus Safety and Security Manual*.

## **EMERGENCY PROCEDURES**

Emergency procedures are essential to maintain a safe environment for students, employees, community, and property. Maintenance Supervisor is responsible for coordinating emergency procedures that are essential.

1. Emergency Drills
2. Emergency Notification and Evacuation

**Emergency Drills:** Evacuations and lockdown drills provide an opportunity to test emergency systems and to allow students, staff, and faculty to practice evacuation and lockdown procedures.

1. Emergency evacuation and lockdown drills will be scheduled by the Maintenance Supervisor at least once per semester.
2. Campus Security Authority will assist with assigned duties to ensure the safety of students and staff.
3. Students will report to the appropriate evacuation meeting location so faculty can account for them using their class rosters.

**Emergency Notification and Evacuation:** If there is an immediate threat to the health or safety of students on campus, staff, faculty, and students will be contacted via the emergency alert system. Emergency warnings will also be made available on the KBOCC homepage.

1. Timely warnings will be issued for on-campus offenses and other potential threats.
2. In the event of an emergency closure, all students will be notified via TV6 closure announcement.
3. Once the nature of the event and the level of danger has been determined, students will go to the appropriate meeting locations listed below.

## EVACUATION MEETING LOCATIONS FOR EACH BUILDING

Building	Evacuation Meeting Location
Niiwin Akeaa 111 Beartown Road, Baraga	Southeast parking lot towards the daycare building
Wabanung Campus 770 N. Main Street, L'Anse	Student Services parking lot on the east side. Downstairs parking lot on the north side
Migiziinsag Lois Ave., L'Anse	End of driveway
Arts & Agricultural Center 15211 Pelkie Rd, Pelkie	Parking Lot
KBOCC Daycare 615 North Main Street, L'Anse	Student Services parking lot across the street

## Sex Offense Policy, Procedures and Programs

- a. A description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and non-forcible sex offenses;

Keweenaw Bay Indian Community's Office of Violence Against Women (OVW) provides presentations on stalking, domestic violence, dating violence, rape, rape acquaintance, sexual assault and other sex offenses annually to all members of the KBOCC community. In addition, OVW supplies KBOCC with displays, brochures, pamphlets, and other educational materials.

Offense awareness and prevention presentations can be available upon request by calling the Dean of Instruction at 906-524-8313.

**b. Procedures students should follow if a sex offense occurs, including:**

- Procedures concerning who should be contacted;
- The importance of preserving evidence for the proof of a criminal offense; and
- To whom the alleged offense should be reported.

**c. Information on a student's option to notify appropriate law enforcement authorities, including:**

- On-campus and local police; and
- A statement that institutional personnel *will* assist the student in notifying authorities, if the student requests the assistance of these personnel.

**\*\* For b & c see Sexual Harassment and Assault Policy below.**

## **SEXUAL HARASSMENT AND ASSAULT POLICY**

KBOCC will not tolerate sexual harassment of any nature or sexual assault. Anyone who sexually harasses or assaults others on campus will be subject to disciplinary action. KBOCC will assist victims of a sexual offense in changing their academic arrangements and Student Services can assist with referrals to help in changing living arrangements.

Sexual harassment is defined as inappropriate comments about a person's gender, clothing, or body; sexist comments of a general or individual nature; physical conduct such as inappropriate touching; unwelcome sexual advances; requests for sexual favors; verbal abuse disguised as humor; obscene gestures; exposure to obscene or sexually offensive media which do not contribute to work or education; or solicitation of sex through implicit or explicit promises of rewards or threats of punishment by an employee, faculty member, or student with the following conditions:

- Submission to such conduct or communication is made a condition, explicitly or implicitly, to obtain educational services;
- Submission to or rejection of such conduct is used as a factor in decisions affecting the student's grades; or
- Such conduct has the purpose or effect of creating an intimidating, hostile, or offensive educational environment.

### **a. Reporting Sexual Harassment and Title IX**

KBOCC is committed to creating and maintaining a learning and working environment that is free from unlawful discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in education programs or activities; Title VII of the Civil Rights act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act, Clery Act, and the Violence Against Women Act (VAWA). Sexual misconduct is a form of sex discrimination.

KBOCC does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.

Sex-based harassment is a form of sex discrimination and includes the following:

- Sexual harassment
- Sexual assault
- Dating violence
- Domestic violence
- Stalking

KBOCC also prohibits retaliation, including peer retaliation, against any person opposing sex discrimination or participating in any sex discrimination investigation or complaint process internally or externally.

KBOCC's Title IX Coordinator is responsible for Title IX compliance in matters involving faculty, staff, and students, including training, education, and investigation of complaints. The Title IX Coordinator is available to answer questions about Title IX, reporting options, supportive measures, and resources.

KBOCC's designated Title IX Coordinator is:

Lindsay Hatzis

[lindsay@icslawyer.com](mailto:lindsay@icslawyer.com)

423-667-1838

KBOCC's designated Deputy Title IX Coordinator is:

Matthew Cotter

[titleix@kbocc.edu](mailto:titleix@kbocc.edu)

906-524-8402

Wabanung Campus, Room 402W

## **1. Notify the Title IX Coordinator**

**You may notify the Title IX Coordinator in any of the following ways:**

- **Online:** Title IX/Sex Discrimination Report form
- **Email:** [titleix@kbocc.edu](mailto:titleix@kbocc.edu)
- **In-person:** Wabanung Campus 402W
- **Phone:** Title IX Coordinator, Lindsay Hatzis: 423-667-1838

Deputy Title IX Coordinator, Matthew Cotter: 906-524-8402

- **U.S. Mail: Title IX Coordinator**

Keweenaw Bay Ojibwa Community College

Wabanung Campus, Room 402W

770 N. Main St.

L'Anse, Michigan 49946

Notifying the Title IX Coordinator will not automatically result in the College conducting an investigation. After receiving a notification, the Title IX Coordinator will contact the Complainant (the person(s) alleged to have experienced sex discrimination) to offer supportive measures and provide information on options and resources. The Respondent (the person(s) alleged to have engaged in the alleged sex discrimination) will not be informed that a notification was made.

## **2. Notify Non-Confidential Employees**

All KBOCC employees, except those designated as confidential, are required to notify the Title IX Coordinator when they learn of conduct that may reasonably constitute sex discrimination. When the Title IX Coordinator receives a notification from a non-confidential employee, they will contact the Complainant to offer supportive measures and provide information on options and resources. The Respondent will not be informed that a notification was made.

## **3. Notify a Confidential Employee**

Notifications made to confidential employees are considered confidential reports. The confidential employee must explain the following to a person who informs them of conduct that reasonably may constitute sex discrimination:

- The employee's status as confidential for purposes of the College's Title IX Policies, including any circumstances in which the employee is not required to notify the Title IX Coordinator;
- How to contact the Title IX Coordinator and how to make a complaint of sex discrimination; and
- That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an information resolution or an investigation under the grievance procedures.

### **Confidential employees at KBOCC include the following:**

Name and Title: Jamie Schultz, Academic Affairs Administrative Assistant

Phone: 906-524-8209

Email: jschultz@kbocc.edu

## **4. Report Anonymously or Request Confidentially**

Anonymous reports may be made to the Title IX Coordinator by email (titleix@kbocc.edu), phone, online form or mail. A decision to remain anonymous, however, may greatly limit the College's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating the Title IX Policy Prohibiting Sex Discrimination or Title IX Policy Prohibiting Sex-Based Harassment Involving a Student.

Individuals may file a report with the Title IX Coordinator and request to remain confidential. The College will evaluate the ability to afford confidentiality. However, doing so may greatly limit the College's ability to stop the

alleged conduct, collect evidence, or take action against parties accused of violating the Title IX Policy Prohibiting Sex Discrimination or Title IX Policy Prohibiting Sex-Based Harassment Involving a Student.

## **5. File a Complaint**

If you have personally experienced sex discrimination, you may file a complaint and request for KBOCC to conduct an investigation. This will initiate the College's Title IX grievance procedures. A complaint will result in the Respondent (the person(s) alleged to have engaged in sex discrimination) being notified of the allegations. A complaint can only be filed by the Complainant (the person(s) alleged to have experienced sex discrimination and includes the guardian of a Complainant who is under 18 years of age) or the Title IX Coordinator.

To file a complaint and request the College investigate a sex discrimination allegation, please contact the Title IX Coordinator or Deputy Title IX Coordinator.

## **REPORTING TO LAW ENFORCEMENT**

Reports may be filed with local law enforcement agencies. The Title IX Coordinator or Deputy Title IX Coordinator can assist with contacting local law enforcement agencies. Law enforcement investigations are separate and distinct from the College's investigations.

### **Village of L'Anse Police Department**

101 N. Main Street, L'Anse, MI

906-524-6050

lansepd@lansemi.org

### **KBIC Tribal Police**

15817 US 41, Baraga, MI

906-353-6626

### **Baraga County Sheriff**

940 US Highway 41, L'Anse, MI

906-524-6100, ext. 695

## **REPORTING TO OUTSIDE AGENCY**

**Reports may also be made to the following external agencies:**

### **Office for Civil Rights**

U.S. Department of Education

1350 Euclid Avenue, Suite 325

Cleveland, Ohio 44115

Telephone: (216) 522-4970

TDD: (800) 877-8339

Fax: (216) 522-2573

Email: OCR@ed.gov

Website: <http://www.ed.gov/ocr>

### **U.S. Equal Employment Opportunity Commission**

Patrick V. McNamara Building

477 Michigan Avenue, Room 865

Detroit, Michigan 48226

Telephone: (313) 774-0020

TTY: (800) 669-4000

Fax: (313) 226-4610

### **Michigan Department of Civil Rights**

Capitol Tower Building

110 West Michigan Avenue, Suite 800

Telephone: (517) 335-3165

Fax: (517) 241-0546

Email: MDCRInfo@michigan.gov

### **Michigan Department of Health and Human Services**

47420 State Hwy M26, Suite 62

Houghton, MI 49931

Telephone: (906) 482-0500

For more information regarding Title IX, resources, training, and supportive measures visit:  
<https://www.kbocc.edu/title-ix-sex-discrimination/>

### **b. Definitions:**

**2.1.1 Sex-Based Harassment:** a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

**(1) Quid pro quo harassment:** An employee, agent, or other person authorized by KBOCC to provide an aid, benefit, or service under KBOCC's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

**(2) Hostile environment harassment:** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from KBOCC's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the complainant's ability to access KBOCC's education program or activity;
- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties' ages, roles within KBOCC's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (iv) The location of the conduct and the context in which the conduct occurred; and
- (v) Other sex-based harassment in KBOCC's education program or activity.

**(3) Specific offenses: Sexual Assault, Dating Violence, Domestic Violence, or Stalking as defined in this Policy.**

**2.1.2 Sexual Assault:** An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, including rape, fondling, incest, and statutory rape as defined in this Policy.

**2.1.3 Rape<sup>1</sup>:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

**2.1.4 Fondling<sup>2</sup>:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental Incapacity.

**2.1.5 Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

---

<sup>1</sup> Rape as defined in the Uniform Crime Reporting Program (UCR) includes:

**Forcible Rape:** The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

**Forcible Sodomy:** Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

**Sexual Assault with and Object:** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

<sup>2</sup> Fondling is referred to as Forcible Fondling in the UCR.



**2.1.6 Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

**2.1.7 Dating Violence:** Violence committed by a person:

- (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) The length of the relationship;
- (ii) The type of relationship; and
- (iii) The frequency of interaction between the persons involved in the relationship;

**2.1.8 Domestic Violence:** Felony or misdemeanor crimes committed by a person who:

- (1) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of KBOCC, or a person similarly situated to a spouse of the victim;
- (2) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- (3) Shares a child in common with the victim; or
- (4) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

**2.1.9 Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) Fear for the person's safety or the safety of others; or
- (2) Suffer substantial emotional distress.

**2.1.10 Retaliation, including Peer Retaliation:** Intimidation, threats, coercion, or discrimination against any person by KBOCC, a student, or an employee or other person authorized by KBOCC to provide aid, benefit, or service under KBOCC's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy, including in an informal resolution process, in grievance procedures, and in any other actions taken by KBOCC under this Policy. Nothing in this definition or this Policy precludes KBOCC from requiring an employee or other person authorized by KBOCC to provide aid, benefit, or service under KBOCC's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing.

## **2.2 Definitions Related to Sex-Based Harassment: Consent, Course of Conduct, Incapacitation, Reasonable Person, Substantial Emotional Distress**

**2.2.1 Consent:** Consent is the affirmative, conscious, and voluntary expression to engage in sexual activity through clear words or actions. Consent is ongoing and can be revoked by words or actions at any point during

the interaction. When consent is withdrawn or can no longer be given, sexual activity must stop. Consent cannot be given when it is the result of coercion, intimidation, force, or threat of harm.

It is the responsibility of each person to ensure they have consent from the other to engage in the sexual activity. Lack of protest, lack of resistance, or silence do not, alone, constitute consent.

The existence of a dating relationship or past sexual relations between the complainant and respondent will never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of consent to prior conduct).

The respondent's belief that the complainant consented will not provide a valid defense unless the belief was actual and reasonable. In making this determination, the decision maker(s) will consider all of the facts and circumstances the respondent knew, or by a reasonable person standard, should have known at the time.

In particular, the respondent's belief is not a valid defense where:

1. The respondent's belief arose from the respondent's own intoxication or recklessness;
2. The respondent did not take reasonable steps, in the circumstances known to the respondent at the time, to ascertain whether the complainant affirmatively consented; or
3. The respondent knew, or by a reasonable person standard should have known at the time, that the complainant was unable to knowingly and willingly consent because the complainant was incapacitated, in that the complainant was:
  - a. asleep or unconscious,
  - b. involuntarily restrained,
  - c. unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication, and/or
  - d. unable to communicate due to a mental or physical condition.

**2.2.2 Course of Conduct:** Two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

**2.2.3 Incapacitation:** A person lacks the ability to actively agree to sexual activity because the person is asleep, unconscious, under the influence of alcohol or other drugs such that the person does not have:

- (1) control over their body, is unaware that sexual activity is occurring, or
- (2) their mental, physical or developmental abilities render them incapable of making rational informed decisions.

Incapacitated is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking, using drugs, or taking medication.

A person violates this Policy when they engage in sexual activity with another person who is incapacitated and a reasonable person in the same situation would have known that the person is incapacitated. Incapacitation can be voluntary or involuntary. Signs of incapacitation may include, without limitation: sleep; total or intermittent unconsciousness; lack of control over physical movements (e.g., inability to dress/undress without assistance;

inability to walk without assistance); lack of awareness of circumstances or surroundings; emotional volatility; combativeness; vomiting; incontinence; unresponsiveness; and inability to communicate coherently. Incapacitation is an individualized determination based on the totality of the circumstances.

**2.2.4 On the Basis of Sex (Scope):** Includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

**2.2.5 Reasonable Person:** A reasonable person under similar circumstances and with similar identities to the victim.

**2.2.6 Substantial Emotional Distress:** Significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

## **2.3 Other Defined Terms**

**2.3.1 Working Day:** Any weekday not designated by KBOCC as a holiday or administrative closure day. When calculating a time period of working days specified in this Policy, the working day of the event that triggers a time period is excluded.

**2.3.2 Complainant:** A student or employee of KBOCC who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or a person other than a student or employee of KBOCC who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in KBOCC's education program or activity.

**2.3.3 Complaint:** An oral or written request to KBOCC that objectively can be understood as a request for KBOCC to investigate and make a determination about alleged discrimination.

### **2.3.4 Confidential Employee:**

(1) An employee of KBOCC whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this Policy, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;

(2) An employee of KBOCC whom KBOCC has designated as confidential under this Policy for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services; or

(3) An employee of a post-secondary institution who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee's confidential status is only with respect to information received while conducting the study.

**2.3.5 Disciplinary Sanctions:** Consequences imposed on a respondent following a determination under Title IX that the respondent violated KBOCC's prohibition on sex discrimination.

**2.3.6 Education Program or Activity:** Any academic, extracurricular, research, occupational training, or other education program or activity.

**2.3.7 Impermissible Evidence:** The following information must not be discussed, otherwise used, accessed or considered, even if relevant, except by KBOCC to determine whether an exception exists.

(1) Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;

(2) A party's or witness' records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless KBOCC obtains that party's or witness' voluntary, written consent for use in KBOCC's grievance procedures; and

(3) Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

**2.3.8 Party:** A complainant or respondent.

**2.3.9 Pregnancy or Related Conditions:**

(1) Pregnancy, childbirth, termination of pregnancy, or lactation;

(2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or

(3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

**2.3.10 Relevant:** Related to the allegations of sex discrimination under investigation as part of the grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

**2.3.11 Remedies:** Measures provided, as appropriate, to a complainant or any other person KBOCC identifies as having had their equal access to KBOCC's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to KBOCC's education program or activity after KBOCC determines that sex discrimination occurred.

**2.3.12 Respondent:** A person who is alleged to have violated KBOCC's prohibition on sex discrimination.

**2.3.13 Student:** A person who has gained admission.

**2.3.14 Student with a Disability:** A student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B), or a child with a disability as defined in the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3).

**2.3.15 Supportive Measures:** Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- (1) Restore or preserve that party’s access to KBOCC’s education program or activity, including measures that are designed to protect the safety of the parties or KBOCC’s educational environment; or
- (2) Provide support during KBOCC’s grievance procedures or during the informal resolution process.

## **Title IX at Keweenaw Bay Ojibwa Community College**

### **Title IX Policy Prohibiting Sex-Based Harassment Involving a Student**

#### **Section 1: Introduction and General Information**

1.1 Nondiscrimination Policy Statement: Keweenaw Bay Ojibwa Community College (KBOCC) does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.

1.2 Purpose: KBOCC takes all reported discrimination on the basis of sex seriously. Sex-based harassment is a form of sex discrimination. KBOCC will promptly discipline any individuals within its control who are found responsible for violating this Policy.

#### 1.3 Applicability:

- a. Students: This Policy applies to students when at least one of the parties to a sex-based harassment allegation is a student.<sup>3</sup>
- b. Employees: This Policy applies to employees when at least one of the parties to a sex-based harassment allegation is a student.<sup>4</sup>

1.4: Title IX Coordinator and Title IX Designees: The Title IX Coordinator is the KBOCC administrator who oversees KBOCC’s compliance with Title IX. The Title IX Coordinator is responsible for the response to notifications of discrimination on the basis of sex, including sex-based harassment. The Title IX Coordinator is available to discuss the grievance procedures, coordinate supportive measures, modifications related to pregnancy and related conditions, explain KBOCC’s policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate other employees to facilitate these responsibilities.

Individuals may contact the Title IX Coordinator or designees with questions.

The contact information for the Title IX Coordinator and designees is as follows:

Name and Title: Lindsay Hatzis, Title IX Coordinator  
Phone: 423-667-1838

---

<sup>3</sup> For all other allegations of sex discrimination involving students, the Title IX Policy Prohibiting Sex Discrimination applies.

<sup>4</sup> When all parties to a sex-based harassment allegation are employees, the Title IX Policy Prohibiting Sex Discrimination applies. For all other allegations of sex discrimination involving employees, the Title IX Policy Prohibiting Sex Discrimination applies.

Email: [lindsay@icslawyer.com](mailto:lindsay@icslawyer.com) or [titleix@kbocc.edu](mailto:titleix@kbocc.edu)

Name and Title: Matthew Cotter, Deputy Title IX Coordinator

Phone: 906-524-8402

Email: [mcotter@kbocc.edu](mailto:mcotter@kbocc.edu)

Office Location: 770 N. Main St., Room 402W, L'Anse, Michigan

1.5 Communication: KBOCC will use KBOCC electronic mail (email) for purposes of communication under this Policy.

1.6 Free Speech: Constitutionally protected expression cannot be considered discrimination on the basis of sex under this Policy.

1.7 Dissemination of Policy of and Notice of Nondiscrimination: KBOCC will publish the Notice of Nondiscrimination on its website and in each handbook, catalog, announcement, bulletin, and application form made available to students, parents/guardians, and employees, or which are otherwise used in connection with the recruitment of students. This posting will include a link to this Policy and reporting options.

1.8 Effective Date: The effective date of this Policy is August 1, 2024. Matters that occurred prior to August 1, 2024 will be resolved using the policy and procedures in place at the time of the alleged event.

1.9 False Statements: The KBOCC Student Handbook prohibits knowingly furnishing false information to college personnel. Any student found to have knowingly furnished false information to college personnel may be subject to discipline pursuant to the Student Handbook. The KBOCC Employee Handbook prohibits the filing of false reports. Any employee found to have filed a false report may be subject to discipline pursuant to the Employee Handbook.

1.10 Amnesty: Reporting discrimination on the basis of sex and other inappropriate conduct is encouraged at KBOCC. Thus, it is imperative that parties and witnesses share information without fear of potential consequences for minor violations of the Student Handbook or Employee Handbook.

1.10.1 Amnesty for Students: KBOCC offers student parties and witnesses amnesty from minor violations of the Student Handbook that do not cause harm or place the health or safety of any other person at risk. However, students may be responsible for other, more serious conduct that does harm or place the health or safety of any other person at risk. After granting amnesty, KBOCC may include educational opportunities for students in lieu of a finding of responsibility or punitive sanctions with the student. This Section does not apply to reports to the police; rather, it applies only to discipline for violations of KBOCC's Student Handbook.

1.10.2 Amnesty for Employees: KBOCC offers employee parties and witnesses amnesty from violations of the Employee Handbook that would not result in immediate dismissal. After granting amnesty, KBOCC may include educational opportunities for employees in lieu of a finding of responsibility or punitive sanctions with the employee. This Section does not apply to reports to the police; rather, it applies only to discipline for violations of KBOCC's Employee Handbook.

1.11 Other KBOCC Policies: This Policy takes precedence over other KBOCC policies and procedures concerning discrimination on the basis of sex in the event of a conflict.

1.12: Modification and Review of this Policy: KBOCC reserves the right to modify this Policy to take into account applicable legal requirements. KBOCC will regularly review this Policy to determine whether modifications should be made.

1.13 Additional Student Handbook, Employee Handbook, or KBOCC Policy Violations: Alleged violations of the Student Handbook, Employee Handbook, and/or other policies that arise from the same events as the alleged sex-based harassment under this Policy will be investigated and resolved under the grievance procedures in this Policy unless the sex-based harassment has been dismissed under Section 5.4 of this Policy.

1.14 Standard of Proof: The burden rests with the KBOCC to prove that a violation of this Policy occurred by a preponderance of the evidence (More likely than not).

1.15 Application: This Policy applies to all sex-based harassment occurring under KBOCC's education program or activity in the United States.

Conduct that occurs under KBOCC's education program or activity includes but is not limited to conduct that occurs in a building owned or controlled by a student organization that is officially recognized by KBOCC, and conduct that is subject to KBOCC's disciplinary authority. KBOCC has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside of KBOCC's education program or activity or outside the United States.

1.16 Prohibited disclosure of personally identifiable information: KBOCC will not disclose personally identifiable information obtained in the course of complying with this Policy and/or grievance procedures except in the following circumstances:

- (1) When KBOCC has obtained prior written consent from a person with the legal right to consent to the disclosure;
- (2) When the information is disclosed to an authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- (3) To carry out the purposes of this Policy and procedure including action taken to address conduct that reasonably may constitute sex discrimination under this Policy in KBOCC's education program or activity;
- (4) As required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or
- (5) To the extent such disclosures are not otherwise in conflict with Title IX or this Policy when required by State or local law or when permitted under FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99.

## **Section 2: Definitions**

### **2.1 Definitions of Prohibited Conduct Under this Policy**

2.1.1 Sex-Based Harassment: a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

- (1) Quid pro quo harassment: An employee, agent, or other person authorized by KBOCC to provide an aid, benefit, or service under KBOCC's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- (2) Hostile environment harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from KBOCC's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  - (i) The degree to which the conduct affected the complainant's ability to access KBOCC's education program or

activity;

(ii) The type, frequency, and duration of the conduct;

(iii) The parties' ages, roles within KBOCC's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

(iv) The location of the conduct and the context in which the conduct occurred; and

(v) Other sex-based harassment in KBOCC's education program or activity.

(3) Specific offenses: Sexual Assault, Dating Violence, Domestic Violence, or Stalking as defined in this Policy.

2.1.2 Sexual Assault: An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, including rape, fondling, incest, and statutory rape as defined in this Policy.

2.1.3 Rape<sup>5</sup>: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

2.1.4 Fondling<sup>6</sup>: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental Incapacity.

2.1.5 Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

2.1.6 Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

2.1.7 Dating Violence: Violence committed by a person:

(1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

---

<sup>5</sup> Rape as defined in the Uniform Crime Reporting Program (UCR) includes:

Forcible Rape: The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault with and Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

<sup>6</sup> Fondling is referred to as Forcible Fondling in the UCR.



(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship;

2.1.8 Domestic Violence: Felony or misdemeanor crimes committed by a person who:

(1) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of KBOCC, or a person similarly situated to a spouse of the victim;

(2) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(3) Shares a child in common with the victim; or

(4) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

2.1.9 Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(1) Fear for the person's safety or the safety of others; or

(2) Suffer substantial emotional distress.

2.1.10 Retaliation, including Peer Retaliation: Intimidation, threats, coercion, or discrimination against any person by KBOCC, a student, or an employee or other person authorized by KBOCC to provide aid, benefit, or service under KBOCC's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy, including in an informal resolution process, in grievance procedures, and in any other actions taken by KBOCC under this Policy. Nothing in this definition or this Policy precludes KBOCC from requiring an employee or other person authorized by KBOCC to provide aid, benefit, or service under KBOCC's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing.

2.2 Definitions Related to Sex-Based Harassment: Consent, Course of Conduct, Incapacitation, Reasonable Person, Substantial Emotional Distress

2.2.1 Consent: Consent is the affirmative, conscious, and voluntary expression to engage in sexual activity through clear words or actions. Consent is ongoing and can be revoked by words or actions at any point during the interaction. When consent is withdrawn or can no longer be given, sexual activity must stop. Consent cannot be given when it is the result of coercion, intimidation, force, or threat of harm.

It is the responsibility of each person to ensure they have consent from the other to engage in the sexual activity. Lack of protest, lack of resistance, or silence do not, alone, constitute consent.

The existence of a dating relationship or past sexual relations between the complainant and respondent will never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of consent to prior conduct).

The respondent's belief that the complainant consented will not provide a valid defense unless the belief was actual and reasonable. In making this determination, the decision maker(s) will consider all of the facts and circumstances the respondent knew, or by a reasonable person standard, should have known at the time.

In particular, the respondent's belief is not a valid defense where:

4. The respondent's belief arose from the respondent's own intoxication or recklessness;
5. The respondent did not take reasonable steps, in the circumstances known to the respondent at the time, to ascertain whether the complainant affirmatively consented; or
6. The respondent knew, or by a reasonable person standard should have known at the time, that the complainant was unable to knowingly and willingly consent because the complainant was incapacitated, in that the complainant was:
  - a. asleep or unconscious,
  - b. involuntarily restrained,
  - c. unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication, and/or
  - d. unable to communicate due to a mental or physical condition.

**2.2.2 Course of Conduct:** Two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

**2.2.3 Incapacitation:** A person lacks the ability to actively agree to sexual activity because the person is asleep, unconscious, under the influence of alcohol or other drugs such that the person does not have:

- (1) control over their body, is unaware that sexual activity is occurring, or
- (2) their mental, physical or developmental abilities render them incapable of making rational informed decisions.

Incapacitated is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking, using drugs, or taking medication. A person violates this Policy when they engage in sexual activity with another person who is incapacitated and a reasonable person in the same situation would have known that the person is incapacitated. Incapacitation can be voluntary or involuntary. Signs of incapacitation may include, without limitation: sleep; total or intermittent unconsciousness; lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance); lack of awareness of circumstances or surroundings; emotional volatility; combativeness; vomiting; incontinence; unresponsiveness; and inability to communicate coherently. Incapacitation is an individualized determination based on the totality of the circumstances.

**2.2.4 On the Basis of Sex (Scope):** Includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

**2.2.5 Reasonable Person:** A reasonable person under similar circumstances and with similar identities to the victim.

**2.2.6 Substantial Emotional Distress:** Significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

## 2.3 Other Defined Terms

**2.3.1 Working Day:** Any weekday not designated by KBOCC as a holiday or administrative closure day. When

calculating a time period of working days specified in this Policy, the working day of the event that triggers a time period is excluded.

**2.3.2 Complainant:** A student or employee of KBOCC who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or a person other than a student or employee of KBOCC who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in KBOCC's education program or activity.

**2.3.3 Complaint:** An oral or written request to KBOCC that objectively can be understood as a request for KBOCC to investigate and make a determination about alleged discrimination.

**2.3.4 Confidential Employee:**

(1) An employee of KBOCC whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this Policy, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;

(2) An employee of KBOCC whom KBOCC has designated as confidential under this Policy for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services; or

(3) An employee of a post-secondary institution who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee's confidential status is only with respect to information received while conducting the study.

**2.3.5 Disciplinary Sanctions:** Consequences imposed on a respondent following a determination under Title IX that the respondent violated KBOCC's prohibition on sex discrimination.

**2.3.6 Education Program or Activity:** Any academic, extracurricular, research, occupational training, or other education program or activity.

**2.3.7 Impermissible Evidence:** The following information must not be discussed, otherwise used, accessed or considered, even if relevant, except by KBOCC to determine whether an exception exists.

(1) Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;

(2) A party's or witness' records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless KBOCC obtains that party's or witness' voluntary, written consent for use in KBOCC's grievance procedures; and

(3) Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the

respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

2.3.8 Party: A complainant or respondent.

2.3.9 Pregnancy or Related Conditions:

- (1) Pregnancy, childbirth, termination of pregnancy, or lactation;
- (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

2.3.10 Relevant: Related to the allegations of sex discrimination under investigation as part of the grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

2.3.11 Remedies: Measures provided, as appropriate, to a complainant or any other person KBOCC identifies as having had their equal access to KBOCC's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to KBOCC's education program or activity after KBOCC determines that sex discrimination occurred.

2.3.12 Respondent: A person who is alleged to have violated KBOCC's prohibition on sex discrimination.

2.3.13 Student: A person who has gained admission.

2.3.14 Student with a Disability: A student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B), or a child with a disability as defined in the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3).

2.3.15 Supportive Measures: Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- (1) Restore or preserve that party's access to KBOCC's education program or activity, including measures that are designed to protect the safety of the parties or KBOCC's educational environment; or
- (2) Provide support during KBOCC's grievance procedures or during the informal resolution process.

### **Section 3: Reporting Sex-Based Harassment and Preservation of Evidence**

#### **3.1 Reporting to KBOCC**

3.1.1 Reporting to/ Notifying the Title IX Coordinator: Reports of sex-based harassment may be made to the Title

IX Coordinator. The Title IX Coordinator may be notified at any time by email, phone, [online form](#) or mail. Notifications may be made in person during business hours. The Title IX Coordinator will promptly respond by offering supportive measures regardless of whether a complaint is initiated.

3.1.2 Reporting to All Employees Who are Not Designated as Confidential Employees: If any employee who is not designated as a confidential employee has information about conduct that may reasonably constitute sex-based harassment, the employee must notify the Title IX Coordinator.

3.1.3 Reporting to Confidential Employees: Confidential employees at KBOCC include the following:

Name and Title: Jamie Schultz, Academic Affairs Administrative Assistant

Phone: 906-524-8209

Email: [jschultz@kbocc.edu](mailto:jschultz@kbocc.edu)

Reports made to confidential employees are considered confidential reports. The confidential employee must explain the following to a person who informs them of conduct that reasonably may constitute sex-based harassment.

- (1) The employee's status as confidential for purposes of this Policy, including any circumstances in which the employee is not required to report to the Title IX Coordinator;
- (2) How to contact the Title IX Coordinator and how to make a complaint of sex-based harassment; and
- (3) That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an information resolution or an investigation under the grievance procedures.

3.1.4 Public Awareness Events: When the Title IX Coordinator is notified of information that may reasonably constitute sex-based harassment that was provided during a public event to raise awareness about sex-based harassment that was held on KBOCC's campus or through an online platform sponsored by KBOCC, KBOCC is not obligated to act in response to the information unless it indicates an imminent and serious threat to the health or safety of a complainant, any students, employees, or other individuals. However, KBOCC must use the information to inform its efforts to prevent sex-based harassment.

3.1.5 Anonymous Reporting: Anonymous reports may be made to the Title IX Coordinator by email, phone, [online form](#) or mail. A decision to remain anonymous, however, may greatly limit KBOCC's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating this Policy.

Individuals may file a report with the Title IX Coordinator and request to remain confidential. KBOCC will evaluate the ability to afford confidentiality. However, doing so may greatly limit KBOCC's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating this Policy.

3.2 Reporting to Law Enforcement: Reports may be filed with local law enforcement agencies. The Title IX Coordinator can assist with contacting law enforcement agencies. Law enforcement investigations are separate and distinct from KBOCC investigations.

Village of L'Anse Police Department

101 N. Main Street, L'Anse, MI

906-524-6050

[lansepd@lansemi.org](mailto:lansepd@lansemi.org)

KBIC Tribal Police  
15817 US 41, Baraga, MI  
906-353-6626

Baraga County Sheriff  
940 US Highway 41, L'Anse, MI  
906-524-6100, ext. 695

### 3.3 Reporting to Outside Agencies: Reports may be made by students and employees to external agencies:

(1) Office for Civil Rights  
U.S. Department of Education  
1350 Euclid Avenue, Suite 325  
Cleveland, Ohio 44115  
Telephone: (216) 522-4970  
TDD: (800) 877-8339  
Fax: (216) 522-2573  
Email: [OCR.Cleveland@ed.gov](mailto:OCR.Cleveland@ed.gov)  
Website: <http://www.ed.gov/ocr>

(2) Michigan Department of Health and Human Services  
47420 State Hwy M26, Suite 62  
Houghton, MI 49931  
Telephone: (906) 482-0500

(3) Michigan Department of Civil Rights  
Capitol Tower Building  
110 West Michigan Avenue, Suite 800  
Lansing, MI 48933  
Telephone: (517) 335-3165  
Fax: (517) 241-0546  
Email: [MDCRInfo@michigan.gov](mailto:MDCRInfo@michigan.gov)

(4) U.S. Equal Employment Opportunity Commission (employees only)  
Patrick V. McNamara Building  
477 Michigan Avenue, Room 865  
Detroit, Michigan 48226  
Telephone: (313) 774-0020  
TTY: (800) 669-4000  
Fax: (313) 226-4610

### 3.4 Outside Agency Confidential Support and Resources:

#### 3.4.1 KBOCC Confidential Resources:

UWill <https://app.uwill.com/>

#### 3.4.2 Community Confidential Resources:

KBIC Niimigimiwang Victim Services  
Call (24-hour Helpline): 855-202-8375 or 906-353-4599

Baraga County Shelter Home  
Call (24-hour Helpline): 906-524-7078  
[www.bcshester.org](http://www.bcshester.org)

Dial Help  
Call (24-hour Helpline): 800-562-7622  
Text: 906-356-3337  
[www.dialhelp.org](http://www.dialhelp.org)

#### 3.4.3 State Resources:

State of Michigan  
Sexual Assault Hotline (24/7): 1-855-864-2374  
Text: 1-866-238-1454  
Online: <https://mcedsv.org/sexual-violence-hotline-chat/>

Michigan Domestic Violence Hotline  
Phone: 1-866-864-2338  
Text: 877-861-0222  
Online: <https://mcedsv.org/hotline-domestic-violence/hotline-chat/>

Michigan Department of Health & Human Services  
Copper Shores Victim Services Unit  
Call: 800-562-7622  
Text: 906-356-3337  
Email: [vs@coppershores.org](mailto:vs@coppershores.org)  
[www.coppershores.org/victim-support](http://www.coppershores.org/victim-support)

#### 3.4.4 National Resources:

National Sexual Assault Hotline  
Phone (24/7): 1-800-656-4673  
Online: <https://hotline.rainn.org/online>

National Domestic Violence Hotline  
Phone: 1-800-799-7233  
Text: Text “START” to 88788

3.5 Time Limits on Reporting: There are no time limits on reporting sex-based harassment to the Title IX Coordinator or KBOCC. If the respondent is no longer subject to KBOCC’s education program or activity or significant time has passed, KBOCC will have limited ability to investigate, respond, and/or provide disciplinary remedies and sanctions.

3.6 KBOCC’s Federal Reporting Obligations: Certain KBOCC employees, called Campus Security Authorities, have a duty to report certain incidents of misconduct to comply with the Clery Act. Campus Security Authorities

are not required to report personally identifiable information for Clery Act purposes, but statistical information must be sent regarding the type of incident that occurred and its general location (e.g., on or off-campus) for publication in an annual report of crime statistics, called the Annual Security Report. Statistics published in the Annual Security Report help to provide the campus community with a clearer picture of the extent and nature of campus crime, but the statistics do not personally identify complainants or respondents. Reports by Campus Security Authorities are not official police reports and do not initiate criminal investigations. When Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking are reported under the Clery Act, KBOCC must issue timely warnings for such incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community. KBOCC will not disclose a complainant's name and other identifying information in a timely warning but will provide sufficient information for KBOCC community members to make informed safety decisions in response to potential danger.

**3.7 Preservation of Evidence:** KBOCC recognizes that a complainant may need time to decide whether to report an incident of sex-based harassment to the police and/or KBOCC. The purpose of this section is to provide complainants with suggestions on preserving evidence while they decide whether to report an incident.

KBOCC encourages complainants, as soon as possible after experiencing sexual assault, to take steps to preserve evidence such as:

- (1) Have a forensic sexual assault nurse examination performed as soon as possible after the incident;
- (2) When possible, prior to having a forensic sexual assault nurse examination performed, avoid: changing clothing, bathing, showering, using a douche, using the bathroom, brushing one's teeth, drinking liquids, washing one's hands or face, or combing one's hair;
- (3) Preserve any clothing, sheets, or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags);
- (4) Preserve or capture electronic communications such as text messages, e-mails, social media posts, or exchanges (e.g., Snapchat, Facebook, Twitter);
- (5) Preserve or capture video, audio (e.g., voice mail messages), or photographs, including those stored on smartphones or other devices; and
- (6) Preserve any other physical, documentary, and/or electronic data that might be helpful to an investigator.

## **Section 4: Grievance Procedures - Evaluation and Supportive Measures**

**4.1 Initial Response to Notification of Sex-Based Harassment:** Upon notification of conduct that reasonably may constitute sex-based harassment, the Title IX Coordinator will promptly contact the complainant regardless of whether the complainant was the individual who initiated the notification. During the initial contact with the complainant the Title IX Coordinator will:

- (1) Provide the complainant with notice of their rights and options;
- (2) Explain the process for initiating a complaint, including the factors considered to determine when the Title IX Coordinator will initiate a complaint.
- (3) Explain the grievance procedures and informal resolution process;
- (4) Discuss the availability of supportive measures regardless of whether a complaint is initiated;
- (5) Consider the complainant's wishes with respect to supportive measures.

**4.2 Supportive Measures:** Supportive measures must be offered and coordinated by KBOCC.

Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or KBOCC's educational environment, or to provide support during KBOCC's grievance procedures or during the informal resolution process. KBOCC must not impose such measures for punitive or disciplinary reasons.



Supportive measures may differ based on what KBOCC deems to be reasonably available. Examples of supportive measures include, but are not limited to:

- (1) Counseling;
- (2) Extensions of deadlines and other course-related adjustments;
- (3) Campus escort services;
- (4) Increased security and monitoring of certain areas of the campus;
- (5) Restrictions on contact applied to one or more parties;
- (6) Leaves of absence;
- (7) Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

Supportive measures may be modified or terminated at the conclusion of the grievance procedures or at the conclusion of the informal resolution process or KBOCC may continue with the supportive measures indefinitely.

**4.2.1 Supportive Measures Review:** Complainants or respondents may seek modification or reversal of KBOCC's decision to provide, deny, modify, or terminate supportive measures applicable to them. An impartial employee, the Supportive Measures Review Administrator, will have authority to modify or reverse the decision if the Supportive Measures Review Administrator determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures in this Policy. The parties will be provided with additional opportunity to seek review by the Supportive Measures Review Administrator of supportive measures if circumstances change materially.

Request for review of supportive measures must be made in writing to:

- (1) The President by emailing [President@kbocc.edu](mailto:President@kbocc.edu)
- (2) Within 7 working days of the initial decision on supportive measures.

Upon receipt of a request for review, the Supportive Measures Review Administrator will evaluate the request and provide a written response with their determination as to whether the prior decision to provide, deny, modify, or terminate the supportive measure was inconsistent within 7 working days. An extension of this time frame may occur for good cause. Written notice will be provided to the parties of the extension of the time frames with explanation of the reasons for such action.

**4.2.2 Privacy of Supportive Measures Information:** KBOCC will not disclose information about any supportive measures to individuals other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity.

**4.2.3. Consultation for Student with Disability:** If the complainant or respondent has a disability, the Title IX Coordinator may consult, as appropriate, with the individual or office that KBOCC has designated to provide support to students with disabilities to determine how to comply with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, in the implementation of supportive measures.

## **Section 5: Complaint**

KBOCC will use the grievance procedures or the informal resolution process for all allegations of sex-based harassment in a complaint.

**5.1 Initiating a Complaint:** A complaint must be an oral or written request to KBOCC that can objectively be understood as a request for KBOCC to investigate and make a determination about alleged sex-based harassment.

The following persons have a right to initiate a complaint alleging sex-based harassment:

- (1) A complainant.
- (2) An authorized legal representative with the legal right to act on behalf of a complainant.
- (3) The Title IX Coordinator.

5.2 Title IX Coordinator Considerations for Initiating a Complaint: In the absence of a complaint or the withdrawal of the allegations in a complaint, the Title IX Coordinator must determine whether to initiate a complaint of sex discrimination. The Title IX Coordinator must consider, at a minimum the following factors:

- (1) The complainant's request not to proceed with initiation of a complaint;
- (2) The complainant's reasonable safety concerns regarding initiation of a complaint;
- (3) The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
- (4) The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- (5) The age and relationship of the parties, including whether the respondent is an employee of KBOCC;
- (6) The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
- (7) The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
- (8) Whether KBOCC could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

5.2.1 Notification of Complainant: If the Title IX Coordinator initiates a complaint, the Title IX Coordinator must notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others, including providing additional supportive measures.

5.3 Response Regardless of Whether Complaint is Initiated: Regardless of whether a complaint is initiated, the Title IX Coordinator will take other appropriate, prompt and effective steps, in addition to steps necessary to effectuate remedies provided to an individual complainant, if any, to ensure that sex discrimination does not continue to recur within KBOCC's education program or activity.

5.4 Dismissal of a Complaint: KBOCC may dismiss a complaint of sex discrimination for any of the following reasons:

- (1) KBOCC is unable to identify the respondent after taking reasonable steps to do so;
- (2) The respondent is not participating in KBOCC's education program or activity and is not employed by KBOCC;
- (3) The complainant voluntarily withdraws any or all of the allegations in the complaint in writing, the Title IX Coordinator declines to initiate a complaint under this Policy, and KBOCC determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under this Policy even if proven; or
- (4) KBOCC determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX or this Policy. Prior to dismissing the complaint under this section, KBOCC will make reasonable efforts to clarify the allegations with the complainant.

5.4.1 Notification of Dismissal of a Complaint: Upon dismissal, KBOCC will promptly notify the complainant of the basis for the dismissal in writing. If the dismissal occurs after the respondent has been notified of the

allegations, then KBOCC will simultaneously notify the respondent of the dismissal and the basis for the dismissal.

5.4.2 Appeal of Dismissal of a Complaint: KBOCC will notify the complainant that a dismissal may be appealed. If the dismissal occurs after the respondent has been notified of the allegations, then KBOCC will also notify the respondent that the dismissal may be appealed. The complainant and respondent (if respondent has been notified of the allegations) may appeal on the bases set forth in section 10.

If the dismissal is appealed, KBOCC will:

- (1) Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- (2) Implement appeal procedures equally for the parties;
- (3) Ensure that the appellate decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- (4) Ensure that the decisionmaker for the appeal has been trained;
- (5) Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- (6) Notify the parties of the result of the appeal and the rationale for the result.

5.4.3 After Dismissal of Complaint: If KBOCC dismisses a complaint, KBOCC will, at a minimum:

- (1) Offer supportive measures to the complainant.
- (2) Offer supportive measures to the respondent if the respondent has been notified of the allegations.
- (3) Take other appropriate, prompt and effective steps to ensure that sex discrimination does not continue or recur within the KBOCC's education program or activity.

5.5 Consolidation of Complaints: KBOCC may consolidate complaints of sex-based harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex-based harassment arise out of the same facts or circumstances.

## **Section 6: Grievance Procedures - General Requirements**

6.1 Equitable Procedures: The grievance procedures within this Policy are designed to treat complainants and respondents equitably.

6.1.1 Burden of Proof and Burden of Gathering Evidence: All investigations and proceedings, including hearings, relating to sex discrimination will be conducted using a "preponderance of the evidence" (more likely than not) standard. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on KBOCC not the parties.

6.1.2 Presumption of Not Responsible: The respondent is presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the grievance process.

6.1.3 Time Frames for Grievance Process: KBOCC strives to complete the grievance process within sixty (60) working days. KBOCC strives to complete the evaluation period within five (5) working days after meeting with the complainant, the investigation period within thirty (30) working days after initiation of complaint, the determination period within fifteen (15) working days, and the appeal within ten (10) working days. Temporary delays and/or extensions of the time frames within this Policy may occur for good cause. Written notice will be provided to the parties of the delay and/or extension of the time frames with explanation of the reasons for such action. Examples of good cause for delay/extensions include, but are not limited to, considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

6.1.4 Range of Disciplinary Sanctions: Sanctions that may be required if an individual is found responsible for violating this Policy include, but are not limited to:

(1) For Students:

- Verbal Warning
- Written Warning
- Intervention/Corrective Action
- Disciplinary Probation
- Restitution
- Suspension
- Expulsion
- Referral to Law Enforcement

(2) For Employees:

- Corrective Action
- Verbal Reprimand
- Written Reprimand
- Suspension
- Termination

6.1.5 Prohibition Against Bias or Conflict of Interest: The Title IX Coordinator, investigator, decisionmaker, or appellate decisionmaker must not have a bias for or against complainants or respondents generally or an individual complainant or respondent. The decisionmaker may be the same person as the Title IX Coordinator or investigator.

6.1.6 Privacy Protection: KBOCC will take reasonable steps to protect the privacy of the parties and witnesses during the pendency of the grievance procedures, provided that the steps do not restrict the ability of the parties to: obtain and present evidence, including by speaking to witnesses, consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures.

6.1.7 Objective Evaluation of Evidence: KBOCC will conduct an objective evaluation of all evidence that is relevant, as defined and not otherwise impermissible, including both inculpatory and exculpatory evidence—and provide that credibility determinations must not be based on a person's status as a complainant, respondent, or witness.

## **Section 7: Grievance Procedures - Investigation**

KBOCC will conduct an investigation following a complaint and notice of allegations. During all meetings and interviews the parties may be accompanied by an advisor of their choice, which can be, but is not required to be, an attorney. The advisor's role is limited to assisting, advising, and/or supporting a complainant or respondent. An

advisor is not permitted to speak for or on behalf of a complainant or respondent or appear in lieu of a complainant or respondent.

KBOCC has discretion to determine whether parties may present expert witnesses and must make that determination equally to the parties.

7.1 Notice of Allegations: Upon initiation of KBOCC's grievance procedures, KBOCC will provide notice of the allegations to the parties whose identities are known which includes:

- (1) KBOCC's grievance procedures.
- (2) Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes:
  - (i) The identities of the parties involved in the incident(s),
  - (ii) The conduct alleged to constitute sex discrimination under this Policy, and
  - (iii) The date(s) and location(s) of the alleged incident(s), to the extent that information is available to KBOCC.
- (3) A statement that retaliation is prohibited.
- (4) A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence and an investigative report that accurately summarizes the evidence.
- (5) A statement that the respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures and that prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker.
- (6) A statement that the parties may have an advisor of their choice to serve in the role set out in paragraph 7.6 of this section, and that the advisor may be, but is not required to be, an attorney.
- (7) A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence and an investigative report that accurately summarizes the evidence.
- (8) A statement of any provisions in the Student Handbook and Employee Handbook that prohibit knowingly making false statements during the grievance procedure.

7.1.1 Updating Notice of Allegations: If, in the course of an investigation, KBOCC decides to investigate additional allegations of sex-based harassment by the respondent toward the complainant that are not included in the notice of allegations or that are included in a complaint that is consolidated, KBOCC will provide notice of the additional allegations to the parties whose identities are known.

7.1.2 Reasonable Delay of Notice of Allegations to Address Safety: If KBOCC has reasonable concerns for the safety of any person as a result of providing this notice, KBOCC may reasonably delay providing written notice of the allegations in order to address the safety concern appropriately. Reasonable concerns will be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

7.2 Burden: KBOCC will ensure that the burden is on KBOCC—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

7.3. Witnesses and Evidence: KBOCC will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

7.4 Unauthorized Access: KBOCC will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex

discrimination are authorized.

7.5 Written Notice of Meetings: Parties and witnesses will be provided notice of any meeting, interview, and/or hearing when their presence is invited or expected with sufficient time to prepare to participate. This notice will include the date, time, location, participants, and purposes of the meeting or proceeding.

7.6 Advisor of Choice: Parties may be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. KBOCC may establish restrictions regarding the extent to which the advisor may participate in the grievance procedures, but the restrictions will apply equally to the parties. Each party is required to have an advisor at the live hearing. If a party does not have an advisor for purposes of the hearing, KBOCC will appoint the party with an advisor without fee or charge.

7.7 Expert Witnesses: KBOCC has discretion to determine whether parties may present expert witnesses and will make that determination equally to the parties.

## **Section 8: Grievance Procedures - Review of Evidence**

KBOCC will provide an equal opportunity to access the relevant and not otherwise impermissible evidence and the investigative report.

KBOCC will provide a reasonable opportunity to respond to the evidence and to the investigative report. Upon receipt of the evidence and investigative report, the parties will have five (5) working days to review and provide a written response to the evidence and investigative report.

The opportunity to review and respond will occur prior to the live hearing.

## **Section 9: Grievance Procedures - Determination (Live Hearing)**

9.1 Live Hearing: At the conclusion of the investigation and review of the evidence and investigative report, KBOCC will provide for a live hearing. KBOCC will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decisionmaker and parties to simultaneously see and hear the other party or witness answering questions. Each party is required to have an advisor at the live hearing. If a party does not have an advisor for purposes of the hearing, KBOCC will appoint the party with an advisor without fee or charge.

9.1.1 Recording of the Live Hearing: KBOCC will create an audio or audiovisual recording of all live hearings and make the recording or a transcript of the hearing available to the parties for inspection or review.

9.1.2 Pre-Hearing Matters: In order to streamline the hearing process, the decisionmaker may request the submission of questions prior to the hearing through electronic submission and/or a pre-hearing conference.

(1) Pre-Hearing Submission of Questions: The decisionmaker may request the parties to submit questions, in writing, prior to the hearing. This submission does not preclude the advisor from asking additional questions live during the hearing. The decisionmaker may allow for the pre-hearing submission of questions regardless of whether a pre-hearing conference occurs.

(2) Pre-Hearing Conference: The decisionmaker may hold a pre-hearing conference. During the pre-hearing conference, parties and their advisors will be asked to submit, in writing, any questions they wish to ask during the live hearing so that the decisionmaker can be prepared to respond to relevancy at the hearing. This conference does not preclude the advisor from asking additional questions live during the hearing. At the pre-hearing conference, the decisionmaker may also hear arguments regarding the relevance of the evidence identified in the report as relevant

or not relevant and/or directly related to the allegations.

9.1.3 Participants in the Hearing: Participants at the hearing include the decisionmakers, the investigator(s) who conducted the investigation, the parties, advisors to the parties, witnesses, and anyone providing authorized accommodations. In addition, KBOCC may have a hearing facilitator present. Any witnesses scheduled to participate in the hearing must have been first interviewed by the investigator(s) or have provided a written statement or answered questions from the investigator in writing.

9.1.4 Hearing Process and Phases: The live hearing will be conducted. KBOCC may adopt rules of decorum for the hearing procedures. The live hearing will include the following phases:

(1) Notice of Hearing: After the evidence and investigative report has been provided to the parties, and at least five (5) working days prior to the date set for the hearing, the parties and their advisors will be provided with a notice of the hearing. The notice will include the date, time, location, name of the decisionmaker, names of all participants in the hearing, and the location of the hearing (in person or virtual).

(i) If a party does not have an advisor, KBOCC will provide an advisor for the purpose of advisor-conducted questioning. Nothing in this Policy prohibits KBOCC from providing an advisor throughout the entirety of the grievance procedures.

(2) Opening Statements: Each party will have the opportunity to present an opening statement to the decisionmaker.

(3) Questioning of Hearing Participants (Parties and Witnesses):

(i) By the Decisionmaker: The decisionmaker will ask initial relevant and not otherwise impermissible questions of the participants at the hearing.

(ii) By the Advisors: After the decisionmaker asks questions of a participant, each party's advisor will be permitted to ask relevant and not otherwise impermissible questions and follow-up questions orally, directly, and in real time of the participant. The parties are never permitted to ask questions of participants directly. The questioning of participants by advisors will be conducted in the following manner:

(a) A question is asked by an advisor.

(b) If the decisionmaker determines that the question is not relevant or is impermissible, the decisionmaker will instruct the participant not to answer the question and the decisionmaker will explain their decision to exclude the question.

(c) Advisors may not ask unclear or harassing questions. If the decisionmaker determines that a question is unclear or harassing, the decisionmaker will provide the advisor an opportunity to clarify or revise the question. If the advisor sufficiently clarifies the question or revises the question so that it is no longer harassing, the question may be asked.

(4) Closing Statements: Each party will have the opportunity to present a closing statement to the decisionmaker(s).

9.2 Determination: At the conclusion of the investigation and review of the evidence and investigative report, the decisionmaker will simultaneously notify the parties in writing of the determination whether sex discrimination

occurred. The determination will include:

- (1) A description of the alleged sex discrimination;
- (2) Information about the policies and procedures that KBOCC used to evaluate the allegations;
- (3) The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex discrimination occurred;
- (4) If the decisionmaker finds that sex discrimination occurred, any disciplinary sanctions imposed on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided to the complainant, and, to the extent appropriate, other students identified to be experiencing the effects of the sex discrimination; and
- (5) KBOCC's procedures for the complainant and respondent to appeal.

**9.2.1 Remedies and Disciplinary Sanctions:** If there is a determination that sex discrimination occurred, as appropriate, the Title IX Coordinator will coordinate the provision and implementation of remedies to the complainant and other persons identified as having had equal access to KBOCC's education program or activity limited or denied by sex discrimination, coordinate the imposition of any disciplinary sanctions on a respondent and take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur.

**9.2.2 Finality of Determination:** The determination regarding responsibility becomes final either on the date KBOCC provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

**9.2.3 Discipline Outside of Grievance Procedures:** KBOCC will not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.

KBOCC will not discipline a party, witness, or others participating in KBOCC's grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

## **Section 10: Appeals**

Appeals are offered to both parties equitably to challenge the determination as to whether sex discrimination occurred and the dismissal of a complaint or allegation therein. Appeals must be filed within 10 working days of the determination or dismissal.

Appeals may be made on the following bases:

- (1) Procedural irregularity that would change the outcome;
- (2) New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred or dismissal was made; and
- (3) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

## **Section 11: Informal Resolution**

At any time prior to determining whether sex discrimination occurred, the parties may agree, with the support of the Title IX Coordinator, to participate in an informal resolution process facilitated by KBOCC, that does not involve the grievance procedures.



KBOCC will not require or pressure the parties to participate in an informal resolution process and will not require waiver of the right to an investigation and determination of a complaint as a condition of enrollment, continuing enrollment, employment, continuing employment, or exercise of any other right.

The facilitator for the informal resolution process will not be the same person as the investigator or decisionmaker in the grievance procedures.

Types of informal resolution include, but are not limited to, mediation, facilitated dialogue, conflict coaching, restorative justice, and resolution by agreement of the parties.

11.1 Discretion of Title IX Coordinator: The Title IX Coordinator has discretion to determine whether it is appropriate to offer an informal resolution and may decline to offer informal resolution despite one or more of the party's wishes. When determining whether to offer informal resolution, the Title IX Coordinator will consider whether the alleged conduct presents a future risk of harm to others.

11.2 Informal Resolution Notice: Prior to the initiation of the informal resolution process, KBOCC will provide the parties written notice that explains:

- (1) The allegations;
- (2) The requirements of the informal resolution process;
- (3) Notice that, prior to agreement to a resolution, any party has the right to withdraw from the informal process and to initiate or resume the grievance procedures;
- (4) Notice that the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
- (5) The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- (6) What information KBOCC will maintain and whether and how KBOCC could disclose such information for use in grievance procedures if the grievance procedures are initiated or resumed.

11.3 Potential Informal Resolution Terms: Potential terms that may be included in an informal resolution agreement include but are not limited to:

- (1) Restrictions on contact; and
- (2) Restrictions on respondent's participation in one or more of KBOCC's programs or activities or attendance at specific events, including restrictions KBOCC could have imposed as remedies or disciplinary sanctions had the decisionmaker determined at the conclusion of the grievance procedures that sex discrimination occurred.

## **Section 12: Emergency Removal and Administrative Leave**

12.1 Emergency Removal: At any time after the Title IX Coordinator is on notice of sex discrimination, KBOCC may remove a respondent on an emergency basis. KBOCC will only conduct an emergency removal after:

- (1) Undertaking an individualized safety and risk analysis,
- (2) Determining that an immediate and serious threat to the health or safety of a complainant or any students,

employees, or other persons arising from the allegations of sex discrimination justifies removal, and

(3) Providing the respondent with notice and an opportunity to challenge the decision to the Title IX Coordinator, immediately following removal.

12.2 Administrative Leave: KBOCC may place an employee respondent on administrative leave during the pendency of the grievance process in this Policy.

### **Section 13: Recordkeeping**

The following records will be maintained by KBOCC for at least seven (7) years:

- (1) Records documenting the informal resolution process or grievance procedures for each complaint of sex discrimination including the resulting outcome.
- (2) Records documenting the actions KBOCC took to provide supportive measures and remedies and a fair and equitable response under this Policy and Title IX.
- (3) Training materials used to provide training to all employees, the Title IX Coordinator, designees, investigators, decisionmakers, informal resolution facilitators, appellate decisionmakers, and supportive measures review administrators.

#### **Sanctions:**

Sanctions will be applied according to the severity of the violation. (Refer to KBOCC Operations Manual's Student Handbook (Annex B), Faculty Handbook (Annex C) or Staff Handbook (Annex D) for specific range of sanctions.

*This report was prepared by the Dean of Student Services, September 26, 2024.*