



TITLE IX APPELLATE OFFICER TRAINING

FALL 2024



AGENDA

Review Role and Responsibilities

2020 Title IX Final Rule: Appeals Procedures

2024 Title IX Final Rule: Appeals Procedures

Review Documents

Discuss Common Pitfalls

Q&A



2020 TITLE IX FINAL RULE: APPEALS PROCEDURES

AFTER THE LIVE HEARING

- Either the Complainant or Respondent may appeal the Live Hearing Officer's determination within **10 College District business days** on the following grounds:
 - Procedural irregularity that affected the outcome,
 - New evidence not reasonably available prior to the Live Hearing that could affect the outcome, and/or
 - Conflict of interest or bias by Collin College's participants that affected the outcome.
- The appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee overseeing the case will notify the non-appealing party that the other party has appealed.
- The non-appealing party will be allowed to submit a written statement in response.

APPEAL DECISION-MAKER'S ROLE

- Title IX Coordinators, Deputy Title IX Coordinators, Informal Resolution Facilitators, Investigators, Removal Challenge Officers, Live Hearing Advisors, and Live Hearing Officers cannot serve as Appeal Decision Makers.
- The Appeal Decision Maker will be an appropriate Vice President or designee.
- When an Appeal Decision Maker is needed to serve on a case, the appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee will assign the appropriate Vice President or designee.
- The Appeal Decision Maker must conduct a **prompt, fair, impartial, unbiased, and equitable** process from the beginning of the Appeal Process to the submission of their *Appropriate Vice President or Designee's Appeal Determination* form.

APPEAL PROCEDURES

- The appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee will send the following items to the Appeal Decision Maker via Collin College email:
 - The final *Investigation Report*,
 - A link to all evidence and documents relevant to the allegation(s),
 - The *Written Determination of Responsibility*,
 - A link to the Zoom audio and video recordings of the Live Hearing,
 - The appealing party's completed *Appeal Request Form*,
 - The non-appealing party's completed *Non-Appealing Party Written Statement* (if submitted by the non-appealing party),
 - The *Title IX Complaint Resolution Process Potential Penalties and Remedies* handout,
 - The *Appropriate Vice President or Designee's Appeal Determination* template, and
 - The *Appeal of Expulsion or Termination to the College District President or Designee Request Form* template (if applicable).

APPEAL PROCEDURES (CONT.)

- The Appeal Decision Maker will review the records and evidence and may, at their discretion, meet separately with the complainant, the respondent, and/or witnesses.
- If the Appeal Decision Maker meets with any party, they **must** audio and/or video record the meeting.

MEETINGS WITH DECISION MAKER

- If the Appeal Decision Maker elects to meet with the complainant and their advisor, the respondent and their advisor, and/or witnesses, the Appeal Decision Maker will contact the parties and witnesses to request they schedule separate meetings through one (1) or more of the following methods:
 1. A written communication sent to the individual's Collin College email account;
 2. A written communication sent to the individual's personal email account, if the individual is not a Collin College student or employee and/or the individual requests that communication be sent through this method;
 3. A letter mailed to the individual's address as listed with the Student and Enrollment Services Office or Human Resources Department (HR);
 4. A letter hand-delivered to the individual on campus by the Appeal Decision Maker. The Appeal Decision Maker will document the date, time, and place of hand-delivery; and/or
 5. A phone call to the individual's number as listed with the Student and Enrollment Services Office, Human Resources Department (HR), or provided to the Appeal Decision Maker.

MEETINGS WITH DECISION MAKER (CONT.)

- If a party or witness does not respond to the Appeal Decision Maker's communication within 10 College District business days, the Appeal Decision Maker will attempt to contact the individual one (1) more time through at least one (1) of the methods listed on the previous slide.
- If a party or witness does not respond to this second communication within 10 College District business days, the Appeal Decisionmaker will proceed with the appeal.

AFTER THE APPEAL

- The Appeal Decision Maker sends the audio and/or video recording(s) of any meeting(s) to the appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee.
 - The appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee then sends an email to the Complainant and Respondent containing the link to the recording(s).
- The Appeal Decision Maker deliberates on the evidence provided and makes a determination.
 - Collin College uses the **preponderance of the evidence standard (i.e., more likely than not to have occurred)**.
 - Think of this as “50% plus a feather.”
 - It is critically important that the Appeal Decision Maker **does not** use a higher standard of evidence when making a determination.

RELEVANT EVIDENCE

- When determining responsibility, the Appeal Decision Maker must consider all information and evidence that is **relevant** to the allegation(s).
- **Inculpatory Evidence**: Evidence that can establish an individual's involvement in an act or their guilt.
- **Exculpatory Evidence**: Evidence that can exonerate an individual.
- For example, in a murder case:
 - Evidence of a prior dispute between the defendant and a next-door neighbor (unrelated to the murder) is not relevant to the case.
 - Evidence of a prior dispute between the defendant and the victim is relevant to the case because it may be related to the motive for the murder.

DETERMINING CREDIBILITY

- The Appeal Decision Maker must determine the credibility of the evidence as well as the credibility of each party and witness.
- Credibility refers to the process of weighing the accuracy and veracity of evidence.
- Credibility and honesty are **not** the same.
 - Stating that evidence is not credible does not mean you are saying someone is lying.
 - Rather, you are evaluating the source, content, and plausibility of the information and evidence provided.
- Credibility gives weight to the evidence and provides support for the Appeal Decision Maker's determination.
- Credible evidence must be used to determine responsibility.
- Credibility determinations may not be based on a person's status as a Complainant, Respondent, or Witness.

DETERMINING CREDIBILITY (CONT.)

- When Determining Credibility:
 - Evaluate the source, content, and plausibility of the evidence and information offered in light of other evidence.
 - If the source, content, and plausibility are strong, credibility is strong.
 - The best way to establish credibility is through corroboration (i.e., sufficient, independent evidence that supports the facts at issue).
 - Look for subtle biases of which the parties and witnesses may not be aware (e.g., victim-blaming, defensiveness, fear of getting in trouble).
 - First-hand information, especially direct knowledge or observation of the alleged incident(s), is best.
- Factors to Consider:
 - Is the testimony/evidence believable? Does it make sense?
 - Are there inconsistencies and contradictions in the testimony/evidence?
 - Did the person seem to be telling the truth? Did the person have a reason to lie?
 - Is there other evidence that supports the testimony?
- **Remember:** A responsible determination can be reached when the **evidence** is **credible** and **sufficient** even if there were no witnesses to the alleged incident(s).

DETERMINING RESPONSIBILITY

- **Must** consider Collin College's jurisdiction:
 - Occurred while participating in or attempting to participate in Collin College's education program or activity, and/or
 - Impacted a person in the United States
- The alleged conduct must be so **severe, pervasive, or objectively offensive** that it limits or denies a party's ability to participate in or benefit from Collin College's educational program or activity.
- Collin College's education program or activity includes:
 - Locations, events, or circumstances over which the institution exercises substantial control over **both** the respondent and the context in which the prohibited conduct occurred.
 - Any building owned or controlled by a student organization that is officially recognized by Collin College.

DETERMINING RESPONSIBILITY (CONT.)

- Quid pro quo harassment, Clery Act, and VAWA offenses (i.e., dating violence, domestic violence, sexual assault, and stalking) are **not** evaluated for severity, pervasiveness, or offensiveness, or denial of equal educational access because such misconduct is sufficiently serious to deprive a student of equal access.
- If the allegation does not rise to the level of a Title IX violation, but the Appeal Decision Maker thinks it still should be addressed through another Collin College process, they can refer it to the appropriate process (e.g., Employee Complaint Process, General Complaint Process, Student Disciplinary Process).

POTENTIAL PENALTIES

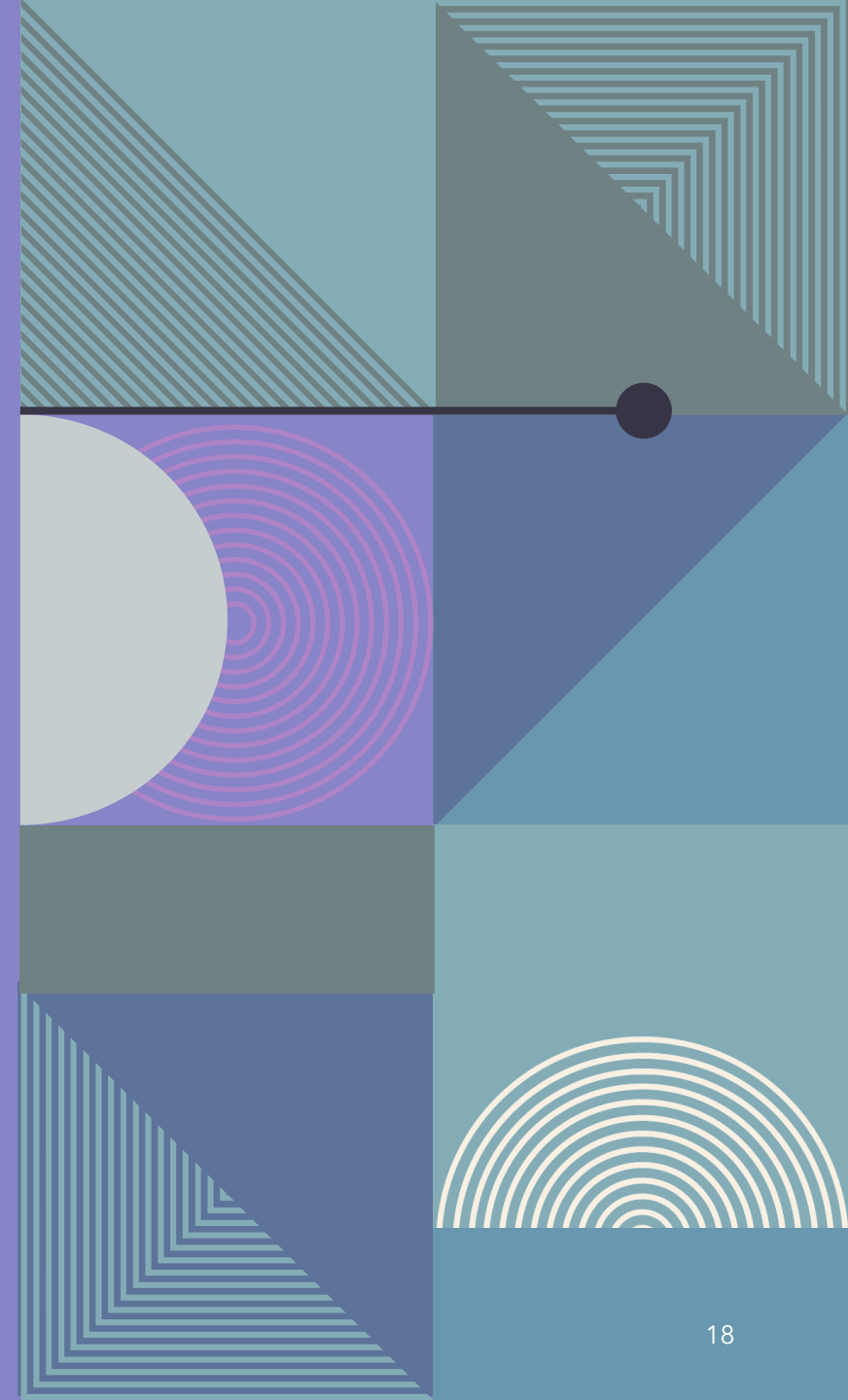
- The Appeal Decision Maker may impose the following penalties on a **student respondent** or other penalties, as appropriate:
 - Reprimand
 - Restitution
 - Educational Project Experience (EPE)
 - Conditional Probation for One (1) Calendar Year, Two (2) Calendar Years, or Three (3) Calendar Years
 - Suspension for One (1) Regular Long Semester (i.e., Fall or Spring), One (1) Calendar Year, Two (2) Calendar Years, Three (3) Calendar Years, or Four (4) Calendar Years
 - Recommendation for Expulsion (Note: The Live Hearing Officer can recommend Expulsion. However, the College District President is the only entity at Collin College who can actually expel a student.)

POTENTIAL PENALTIES (CONT.)

- The Appeal Decision Maker may impose the following penalties on an employee respondent or other penalties, as appropriate:
 - Coaching and Counseling
 - Written Disciplinary Action
 - Unpaid Administrative Leave
 - Recommendation for Termination (Note: The Live Hearing Officer can recommend Termination. However, the College District President/Board is the only entity at Collin College who can actually terminate an employee.)

POTENTIAL REMEDIES

- If the Appeal Decision Maker determines the respondent committed prohibited conduct, Collin College **must** effectively implement remedies for the complainant.
- Remedies are designed to restore or preserve the complainant's right to equal access to education.
- The Appeal Decision Maker has flexibility to recommend remedies they think will best address each incident of prohibited conduct and meet each complainant's needs.
- The appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee is responsible for ensuring the effective implementation of any remedies.



POTENTIAL REMEDIES (CONT.)

- Remedies the Appeal Decision Maker can offer to a **student complainant** include, but are not limited to:
 1. Campus Change
 2. Class Schedule Change
 3. Drop a Course Without an Academic Penalty
 4. Increased Security and Staff Monitoring of Certain Areas of the Campus
 5. Information Regarding and Referrals to the Appropriate Agency for a No-Contact Order, Order of Protection, Restraining Order, or Similar Lawful Order through a Civil, Criminal, or Tribal Court
 6. Late Withdrawal from a Course
 7. No-Contact Directive Issued by Collin College
 8. Referral to Appropriate Medical Facility
 9. Referral to Appropriate Off-Campus Resources
 10. Referral to Collin College Police Department and/or Local Law Enforcement Agency
 11. Referral to Counseling Services
 12. Specific Educational Programming for an Individual or Group
 13. Student Employment Assignment Change
 14. Student Housing Change (If Residing in Collin College Student Housing)

POTENTIAL REMEDIES (CONT.)

- Remedies the Appeal Decision Maker can offer to an **employee complainant** include, but are not limited to:
 1. Drop a Course Without an Academic Penalty
 2. Increased Security and Staff Monitoring of Certain Areas of the Campus
 3. Information Regarding and Referrals to the Appropriate Agency for a No-Contact Order, Order of Protection, Restraining Order, or Similar Lawful Order through a Civil, Criminal, or Tribal Court
 4. No-Contact Directive Issued by Collin College
 5. Referral to Appropriate Medical Facility
 6. Referral to Appropriate Off-Campus Resources
 7. Referral to Collin College Police Department and/or Local Law Enforcement Agency
 8. Referral to Employee Assistance Program (EAP)
 9. Specific Educational Programming for an Individual or Group
 10. Work Schedule Reassignment

AFTER THE APPEAL (CONT.)

- The Appeal Decision Maker composes the *Appropriate Vice President or Designee's Appeal Determination*.
- The Appeal Decision Maker sends the following documents to the Complainant and Respondent **simultaneously** in electronic format or hard copy within **10 College District business days** of the Appeal:
 - *Appropriate Vice President or Designee's Appeal Determination*
 - *Appeal of Recommendation for Expulsion or Termination to the College District President or Designee Request Form* (if applicable)
 - Any Other Applicable Forms or Documents (e.g., *Permanent No Contact Directive Acknowledgment Form*)
- Make sure the appeal deadline is filled in on **both** the *Appropriate Vice President or Designee's Appeal Determination* and *Appeal of Recommendation for Expulsion or Termination to the College District President or Designee Request Form*, if applicable.
 - This deadline will be **4:30 p.m.** on the **tenth College District business day** after the date you send the documents to the parties.

CALCULATING “COLLEGE DISTRICT BUSINESS DAYS”

- College District business days exclude:
 1. Weekends (i.e., Saturdays and Sundays)
 2. National holidays recognized by Collin College
 3. College District closures
- **Do not** count the day you send the documents.
- Examples:
 1. If you send the documents on **Monday, October 7, 2024**, the parties will have until **4:30 p.m. on Monday, October 21, 2024**, to submit an appeal.
 2. If you send the documents on **Wednesday, December 18, 2023**, the parties will have until **4:30 p.m. on Monday, January 13, 2024**, to submit an appeal due to the Winter Break.

AFTER THE APPEAL (CONT.)

- The Appeal Decision Maker's determination is final and non-appealable except when Expulsion of a student or Termination of an employee is recommended.
- **Only** in cases where Expulsion of a student or Termination of an employee is recommended, either the Complainant or Respondent may appeal the Appeal Decision Maker's determination within **10 College District business days**.
- The Appeal Decision Maker's obligation ends once the *Appropriate Vice President or Designee's Appeal Determination* becomes final or the Expulsion/Termination Appeal phase is initiated.



**2024 TITLE IX FINAL
RULE: APPEAL
PROCEDURES**

APPEALS STAGE

- Collin College offers a process for appeals from a determination whether sex discrimination and/or sex-based harassment occurred.
- This process will be, at a minimum, the same as Collin College offers in all other comparable proceedings, including proceedings relating to other discrimination complaints.
- Collin College offers the following appeals:
 - Level I Appeal
 - Level II Appeal
 - Level III Appeal (Note: **Only** for cases in which it is recommended that a student be expelled or an employee be terminated.)

ANTICIPATED TIMEFRAMES FOR THE APPEALS STAGE

- Level I Appeal

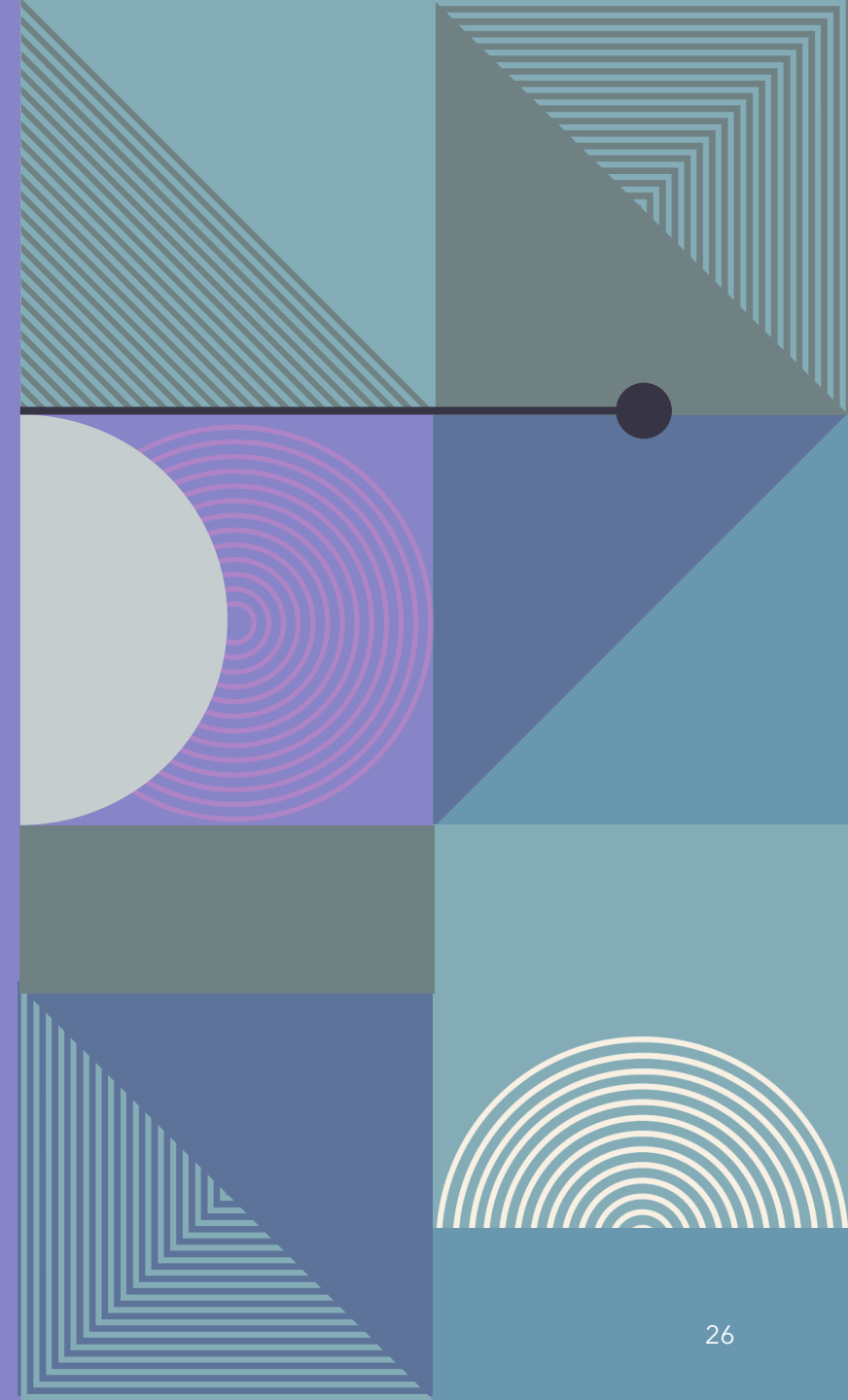
- The parties may file a Level I Appeal no later than 10 College District business days after the date the *Written Determination of Responsibility* is sent by the decision-maker(s).
- The Level I appellate officer(s) will initiate the appeal process no later than 10 College District business days after receiving the appeal. The Level I appellate officer(s) will send the *Level I Appeal Determination* to the parties simultaneously in writing no later than 10 College District business days after the conclusion of the Level I Appeal stage.

- Level II Appeal

- The parties may file a Level II Appeal no later than 10 College District business days after the date the *Level I Appeal Determination* is sent by the Level I appellate officer(s).
- The Level II appellate officer(s) will initiate the appeal process no later than 10 College District business days after receiving the appeal. The Level II appellate officer(s) will send the *Level II Appeal Determination* to the parties simultaneously in writing no later than 10 College District business days after the conclusion of the Level II Appeal stage.

- Level III Appeal

- If applicable, the parties may file a Level III Appeal no later than 10 College District business days after the date the *Level II Appeal Determination* is sent by the Level II appellate officer(s).
- The Level III appellate officer(s) will initiate the appeal process no later than 10 College District business days after receiving the appeal. The Level III appellate officer(s) will send the *Level III Appeal Determination* to the parties simultaneously in writing no later than 10 College District business days after the conclusion of the Level III Appeal stage.



ADVISORS' ROLES DURING THE APPEALS STAGE

- Both parties have equal rights to be accompanied by an advisor of their choice (e.g., family member, friend, legal counsel) to meetings with the appellate officer(s).
- However, only the party may speak on their behalf.
- Collin College will not provide an advisor for either party during this stage of the Title IX grievance procedures.
- Collin College retains the right to limit the role of both parties' advisors in meetings with the appellate officer(s).
- Should a party's advisor continuously speak on the party's behalf, become combative, or otherwise disrupt the proceedings, the appellate officer(s) reserves the right to ask them to leave or to end the proceedings and reschedule for a later date.

LEVEL I APPEAL

- Either the complainant or respondent may appeal the decision-maker(s)'s determination within 10 College District business days of the date the *Written Determination of Responsibility* is sent to the parties.
- Collin College will offer an appeal only 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 was made; and/or
 3. The Title IX coordinator(s), deputy Title IX coordinator(s), investigator(s), and/or decision-maker(s) 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.
- The appropriate Title IX coordinator, deputy Title IX coordinator, or designee will notify the non-appealing party that the other party has appealed, and the non-appealing party will be allowed to submit a written statement in response.

LEVEL I APPELLATE OFFICER(S)

- The Level I appellate officer(s) will be an appropriate dean or director.
- The Level I appellate officer(s) will not be the Title IX coordinators, deputy Title IX coordinators, informal resolution facilitators, investigators, challenge officers, decision-makers, Level II appellate officers, or Level III appellate officers.
- The appropriate Title IX coordinator, deputy Title IX coordinator, or designee will assign an appropriate Level I appellate officer(s) to facilitate the Level I Appeal.
- All Level I appellate officers will receive appropriate training on at least an annual basis to function in this role.
- The Level I appellate officer(s) will be free from conflicts of interest or bias for or against complainants or respondents generally or the individual complainant or respondent.
- The Level I appellate officer(s) will conduct a prompt, fair, impartial, unbiased, and equitable process from receipt of the appeal to the submission of the *Level I Appeal Determination*.

LEVEL I APPEAL PROCEDURES

- The appropriate Title IX coordinator, deputy Title IX coordinator, or designee will forward all information regarding the investigation, *Investigation Report*, and *Written Determination of Responsibility* to the Level I appellate officer(s).
- The Level I appellate officer(s) will review the records and evidence and may, at their discretion, meet separately with the complainant and their advisor (if the complainant elects to provide their own advisor during the grievance procedures), respondent and their advisor (if the respondent elects to provide their own advisor during the grievance procedures), and/or witnesses.

MEETING(S) WITH LEVEL I APPELLATE OFFICER(S)

- If the Level I appellate officer(s) elects to meet with the complainant and their advisor (if the complainant elects to provide their own advisor during the grievance procedures), respondent and their advisor (if the respondent elects to provide their own advisor during the grievance procedures), and/or witnesses, the Level I appellate officer(s) will contact the parties and witnesses to request they schedule separate meetings.
- The communication will be made through one (1) or more of the following methods:
 1. A written communication sent to the individual's Collin College email account;
 2. A written communication sent to the individual's personal email account, if the individual is not a Collin College student or employee and/or the individual requests that communication be sent through this method;
 3. A letter mailed to the individual's address as listed with the Student and Enrollment Services Office or Human Resources Department (HR);
 4. A letter hand-delivered to the individual on campus by the Level I appellate officer(s). The Level I appellate officer(s) will document the date, time, and place of hand-delivery; and/or
 5. A phone call to the individual's number as listed with the Student and Enrollment Services Office, Human Resources Department (HR), or provided to the Level I Appellate Officer(s).

MEETING(S) WITH LEVEL I APPELLATE OFFICER(S) (CONT.)

- If a party or witness does not respond to the Level I appellate officer(s)'s communication within 10 College District business days, the Level I appellate officer(s) will attempt to contact the individual one (1) more time through at least one (1) of the methods listed on the previous slide.
- If a party or witness does not respond to this second communication within 10 College District business days, the Level I appellate officer(s) will proceed with the appeal.

MEETING(S) WITH LEVEL I APPELLATE OFFICER(S) (CONT.)

- The Level I appellate officer(s) may meet separately with the complainant and their advisor (if the complainant elects to provide their own advisor during the grievance procedures), respondent and their advisor (if the respondent elects to provide their own advisor during the grievance procedures), and/or witnesses either in person or via Zoom or other web conferencing software approved by Collin College.
- The Level I appellate officer(s) may set time limits for any meetings.
- All meetings will be audio and/or video recorded.
- If a party or witness does not appear for a scheduled meeting without good cause, the Level I appellate officer(s) may proceed with the appeal.

MEETING(S) LEVEL I APPELLATE OFFICER(S) (CONT.)

- For the purposes of complaints against Collin College (i.e., complaints alleging sex discrimination in Collin College's policy or practice), the institution is not considered a respondent.
 - In lieu of meeting with a respondent, the Level I appellate officer(s) may meet with the appropriate Collin College administrator or designee.
 - The appropriate Collin College administrator or designee will be defined as an employee capable of taking corrective action regarding the complaint.

LEVEL I APPEAL DETERMINATION

- After the appeal, the Level I appellate officer(s) will deliberate on the evidence provided and make a determination using the preponderance of the evidence standard (i.e., more likely than not to have occurred). Level I appellate officer(s) will compose a *Level I Appeal Determination*, which will describe the:
 1. Appeal and rationale for the determination, and
 2. Procedures and bases for appeal.
- The Level I appellate officer(s) will send the *Level I Appeal Determination* simultaneously to the parties and their respective advisors (if the parties elect to provide their own advisors during the grievance procedures) in electronic format or hard copy along with information about how to file an appeal.
- The Level I appellate officer(s) will copy the appropriate Title IX coordinator, deputy Title IX coordinator, or designee when the *Level I Appeal Determination* is sent in electronic format.

LEVEL I APPEAL DETERMINATION (CONT.)

- The *Level I Appeal Determination* will become final when:
 1. The stated time period to file an appeal has passed for both parties and neither party appeals, or
 2. The parties are notified of the result of any appeal(s) and the appeal process has been exhausted for both parties.

LEVEL II APPEAL

- Either the complainant or respondent may appeal the Level I appellate officer(s)'s determination within 10 College District business days of the date the *Level I Appeal Determination* is sent to the parties.
- Collin College will offer an appeal only 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 was made; and/or
 3. The Title IX coordinator(s), deputy Title IX coordinator(s), investigator(s), and/or decision-maker(s) 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.
- The appropriate Title IX coordinator, deputy Title IX coordinator, or designee will notify the non-appealing party that the other party has appealed, and the non-appealing party will be allowed to submit a written statement in response.

LEVEL II APPELLATE OFFICER(S)

- The Level II appellate officer(s) will be an appropriate associate vice president, vice president, or designee.
- The Level II appellate officer(s) will not be the Title IX coordinators, deputy Title IX coordinators, informal resolution facilitators, investigators, challenge officers, decision-makers, Level I appellate officers, or Level III appellate officers.
- The appropriate Title IX coordinator, deputy Title IX coordinator, or designee will assign an appropriate Level II appellate officer(s) to facilitate the Level II Appeal.
- All Level II appellate officers will receive appropriate training on at least an annual basis to function in this role.
- The Level II appellate officer(s) will be free from conflicts of interest or bias for or against complainants or respondents generally or the individual complainant or respondent.
- The Level II appellate officer(s) will conduct a prompt, fair, impartial, unbiased, and equitable process from receipt of the appeal to the submission of the *Level II Appeal Determination*.

LEVEL II APPEAL PROCEDURES

- The appropriate Title IX coordinator, deputy Title IX coordinator, or designee will forward all information regarding the investigation, *Investigation Report*, *Written Determination of Responsibility*, and *Level I Appeal Determination* to the Level II appellate officer(s).
- The Level II appellate officer(s) will review the records and evidence and may, at their discretion, meet separately with the complainant and their advisor (if the complainant elects to provide their own advisor during the grievance procedures), respondent and their advisor (if the respondent elects to provide their own advisor during the grievance procedures), and/or witnesses.

MEETING(S) WITH LEVEL II APPELLATE OFFICER(S)

- If the Level II appellate officer(s) elects to meet with the complainant and their advisor (if the complainant elects to provide their own advisor during the grievance procedures), respondent and their advisor (if the respondent elects to provide their own advisor during the grievance procedures), and/or witnesses, the Level II appellate officer(s) will contact the parties and witnesses to request they schedule separate meetings.
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 5. A phone call to the individual's number as listed with the Student and Enrollment Services Office, Human Resources Department (HR), or provided to the Level II Appellate Officer(s).

MEETING(S) WITH LEVEL II APPELLATE OFFICER(S) (CONT.)

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- The Level II appellate officer(s) may set time limits for any meetings.
- All meetings will be audio and/or video recorded.
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MEETING(S) LEVEL II APPELLATE OFFICER(S) (CONT.)

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 1. Appeal and rationale for the determination, and
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- The Level II appellate officer(s) will copy the appropriate Title IX coordinator, deputy Title IX coordinator, or designee when the *Level II Appeal Determination* is sent in electronic format.
- The Level II appellate officer(s) determination is final and non-appealable except when expulsion of a student or termination of an employee is recommended.

LEVEL III APPEAL

- **Solely** in a case where expulsion of a student or termination of an employee is recommended, either the complainant or respondent may appeal the Level II appellate officer(s)'s determination within 10 College District business days of the date the *Written Determination of Responsibility* is sent to the parties.
- Collin College will offer an appeal only on the following bases:
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LEVEL III APPELLATE OFFICER(S)

- The Level III appellate officer(s) will be the College District President or designee.
- The Level III appellate officer(s) will not be the Title IX coordinators, deputy Title IX coordinators, informal resolution facilitators, investigators, challenge officers, decision-makers, Level I appellate officers, or Level II appellate officers.
- The appropriate Title IX coordinator, deputy Title IX coordinator, or designee will assign an appropriate Level III appellate officer(s) to facilitate the Level III Appeal.
- All Level III appellate officers will receive appropriate training on at least an annual basis to function in this role.
- The Level III appellate officer(s) will be free from conflicts of interest or bias for or against complainants or respondents generally or the individual complainant or respondent.
- The Level III appellate officer(s) will conduct a prompt, fair, impartial, unbiased, and equitable process from receipt of the appeal to the submission of the *Level III Appeal Determination*.

LEVEL III APPEAL PROCEDURES

- The appropriate Title IX coordinator, deputy Title IX coordinator, or designee will forward all information regarding the investigation, *Investigation Report*, and *Written Determination of Responsibility*, *Level I Appeal Determination*, and *Level II Appeal Determination* to the Level III appellate officer(s).
- The Level III appellate officer(s) will review the records and evidence and may, at their discretion, meet separately with the complainant and their advisor (if the complainant elects to provide their own advisor during the grievance procedures), respondent and their advisor (if the respondent elects to provide their own advisor during the grievance procedures), and/or witnesses.

MEETING(S) WITH LEVEL III APPELLATE OFFICER(S)

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- The communication will be made through one (1) or more of the following methods:
 1. A written communication sent to the individual's Collin College email account;
 2. A written communication sent to the individual's personal email account, if the individual is not a Collin College student or employee and/or the individual requests that communication be sent through this method;
 3. A letter mailed to the individual's address as listed with the Student and Enrollment Services Office or Human Resources Department (HR);
 4. A letter hand-delivered to the individual on campus by the Level III appellate officer(s). The Level I appellate officer(s) will document the date, time, and place of hand-delivery; and/or
 5. A phone call to the individual's number as listed with the Student and Enrollment Services Office, Human Resources Department (HR), or provided to the Level III Appellate Officer(s).

MEETING(S) WITH LEVEL III APPELLATE OFFICER(S) (CONT.)

- If a party or witness does not respond to the Level III appellate officer(s)'s communication within 10 College District business days, the Level III appellate officer(s) will attempt to contact the individual one (1) more time through at least one (1) of the methods listed on the previous slide.
- If a party or witness does not respond to this second communication within 10 College District business days, the Level III appellate officer(s) will proceed with the appeal.

MEETING(S) WITH LEVEL III APPELLATE OFFICER(S) (CONT.)

- The Level III appellate officer(s) may meet separately with the complainant and their advisor (if the complainant elects to provide their own advisor during the grievance procedures), respondent and their advisor (if the respondent elects to provide their own advisor during the grievance procedures), and/or witnesses either in person or via Zoom or other web conferencing software approved by Collin College.
- The Level III appellate officer(s) may set time limits for any meetings.
- All meetings will be audio and/or video recorded.
- If a party or witness does not appear for a scheduled meeting without good cause, the Level III appellate officer(s) may proceed with the appeal.

MEETING(S) LEVEL III APPELLATE OFFICER(S) (CONT.)

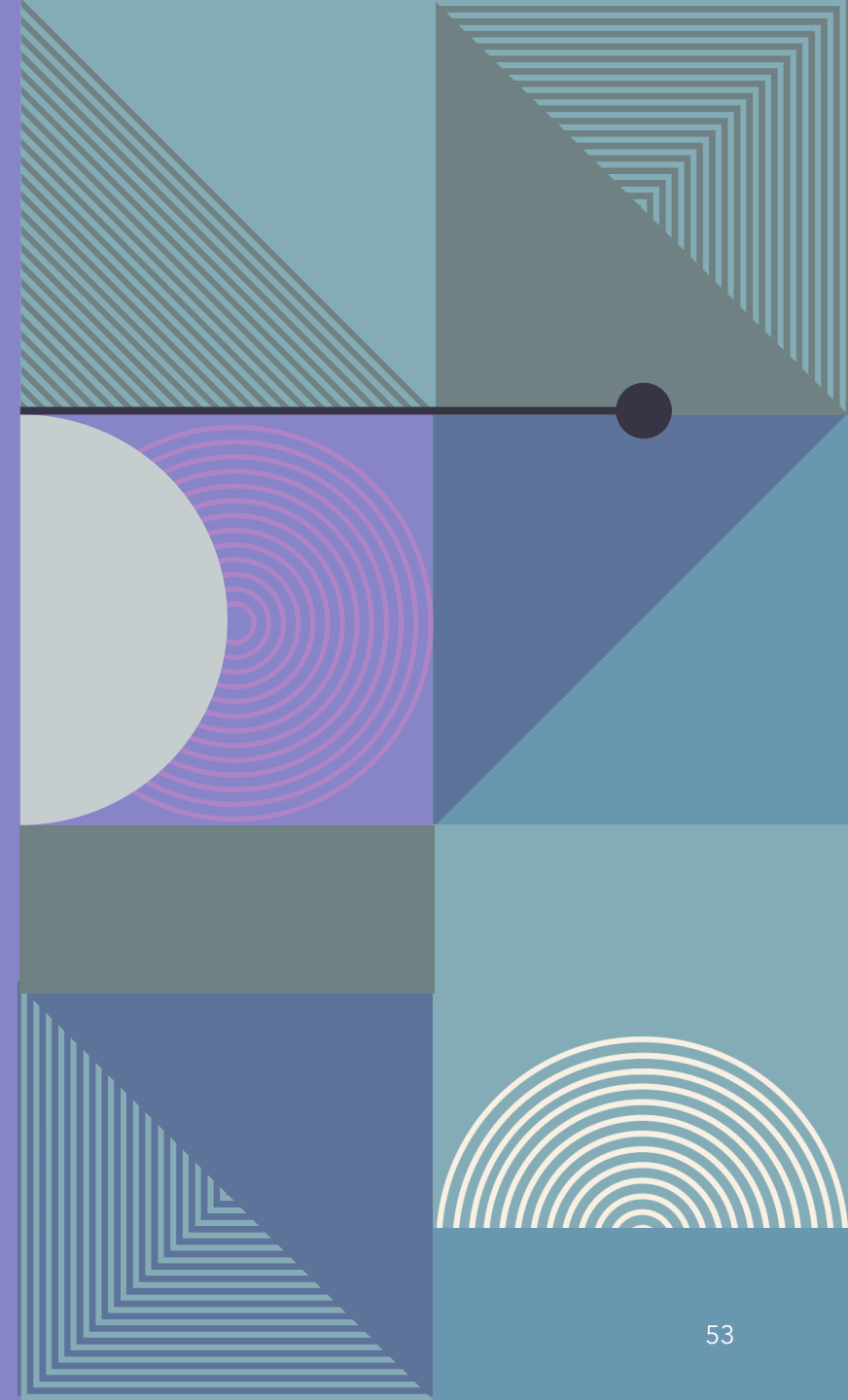
- For the purposes of complaints against Collin College (i.e., complaints alleging sex discrimination in Collin College's policy or practice), the institution is not considered a respondent.
 - In lieu of meeting with a respondent, the Level III appellate officer(s) may meet with the appropriate Collin College administrator or designee.
 - The appropriate Collin College administrator or designee will be defined as an employee capable of taking corrective action regarding the complaint.

LEVEL III APPEAL DETERMINATION

- After the appeal, the Level III appellate officer(s) will deliberate on the evidence provided and make a determination using the preponderance of the evidence standard (i.e., more likely than not to have occurred). Level III appellate officer(s) will compose a *Level III Appeal Determination*, which will describe the appeal and rationale for the determination.
- The Level III appellate officer(s) will send the *Level III Appeal Determination* simultaneously to the parties and their respective advisors (if the parties elect to provide their own advisors during the grievance procedures) in electronic format or hard copy along with information about how to file an appeal.
- The Level III appellate officer(s) will copy the appropriate Title IX coordinator, deputy Title IX coordinator, or designee when the *Level I Appeal Determination* is sent in electronic format.
- The Level III appellate officer(s) determination is final and non-appealable.

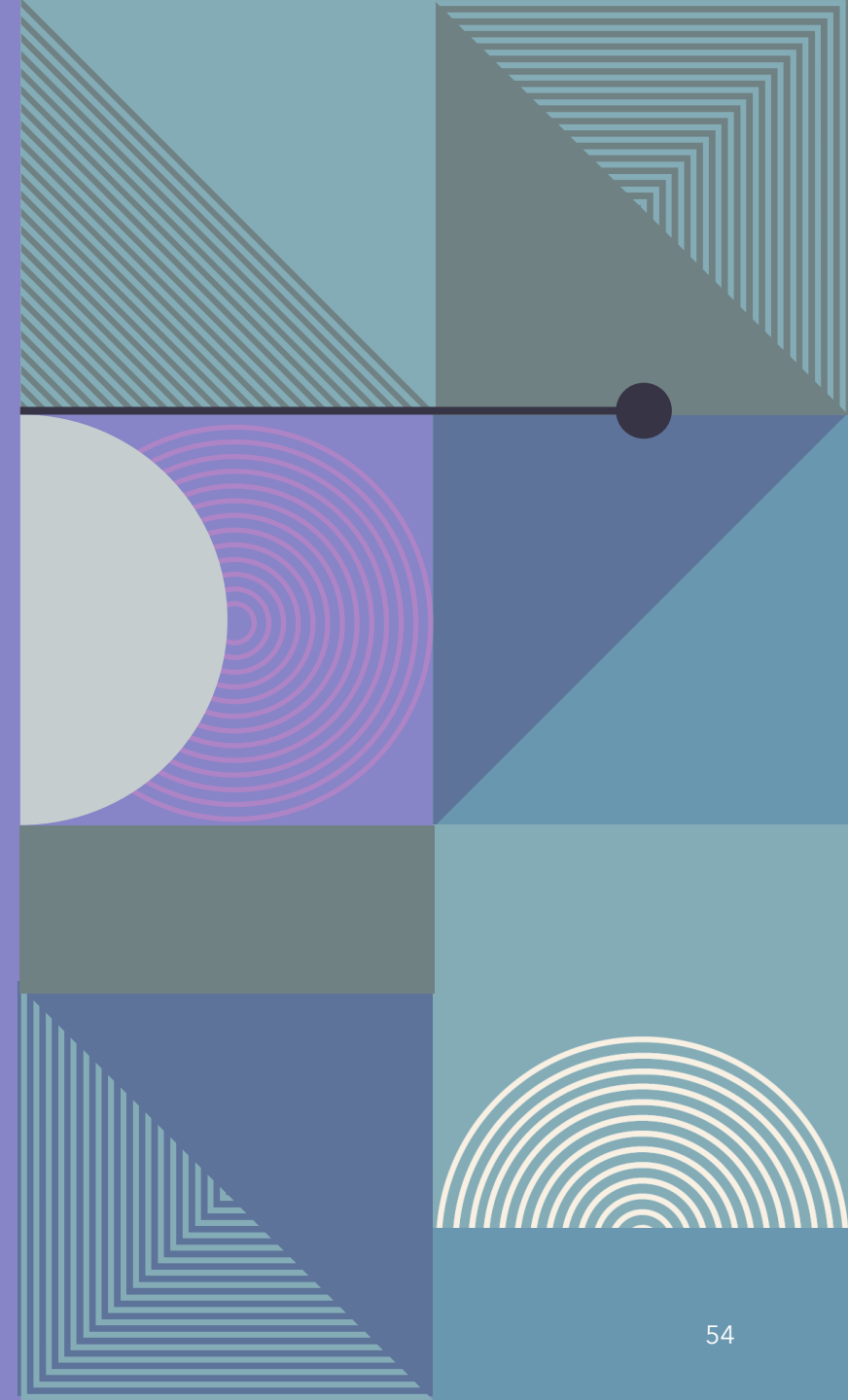
LEVEL III APPELLATE OFFICER(S) REVIEW OF RECOMMENDATION FOR EXPULSION OR TERMINATION

- The Level III appellate officer(s) will review all recommendations for expulsion of a student or termination of an employee, whether the student or employee chooses to proceed through the Title IX grievance procedures appeal process.
- The appropriate Title IX coordinator, deputy Title IX coordinator, or designee will forward the recommendation for expulsion of a student or termination of an employee to the Level III appellate officer(s) for review and final consideration.
- The Level III appellate officer(s) may act to affirm, modify, or reverse the recommendation for expulsion of a student or termination of an employee.



RELEVANT QUESTIONS AND EVIDENCE

- “Relevant” means related to the allegations of sex discrimination and/or sex-based harassment under investigation as part of Collin College’s grievance procedures.
- Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination and/or sex-based harassment occurred.
- Evidence is relevant when it may aid a decision-maker in determining whether the alleged sex discrimination and/or sex-based harassment occurred.



IMPERMISSIBLE QUESTIONS AND EVIDENCE

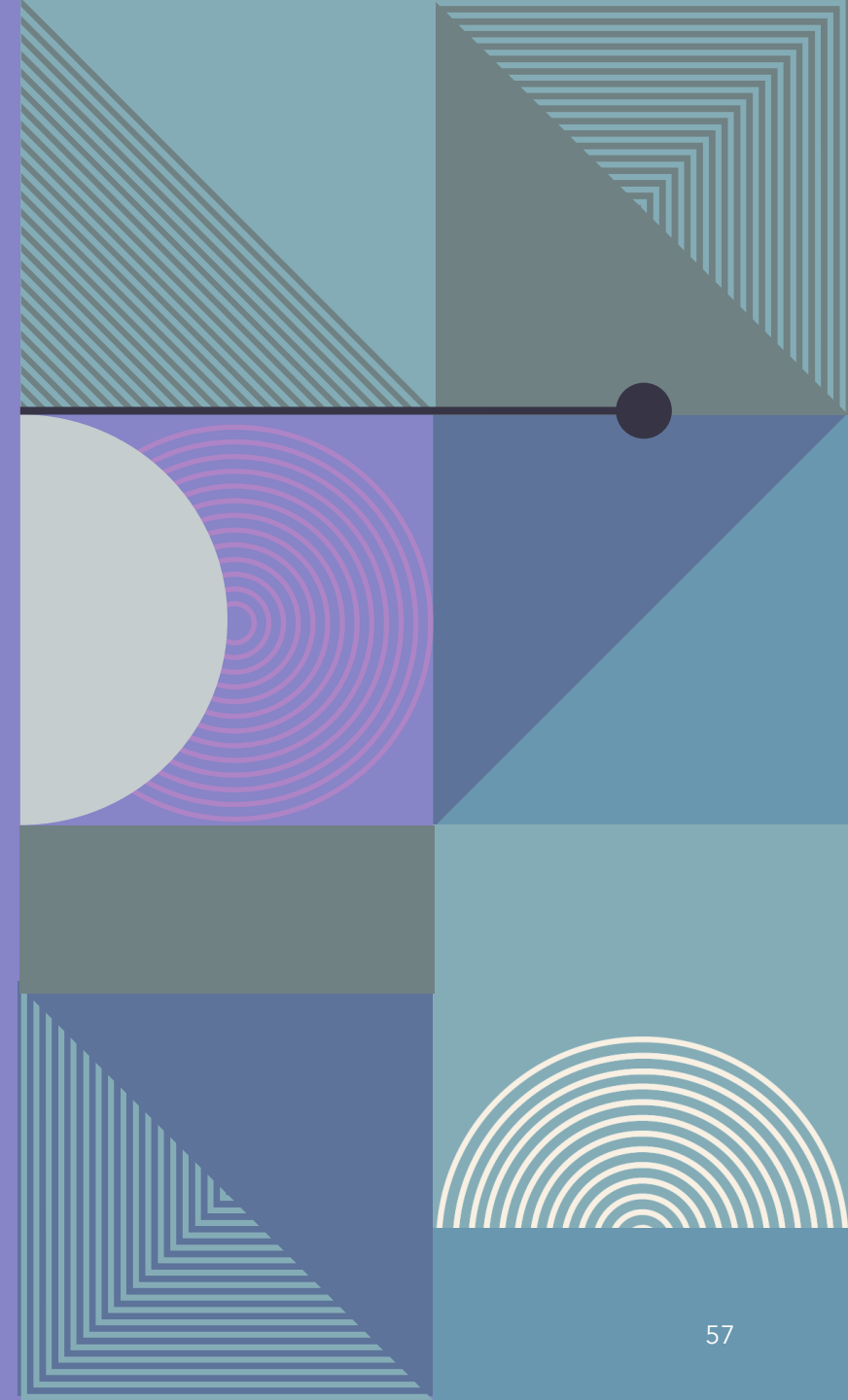
- The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by Collin College to determine whether one (1) of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:
 1. Evidence that is **protected under a privilege** 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's **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 Collin College obtains that party's or witness's voluntary, written consent for use in Collin College'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 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.

REFUSAL TO RESPOND TO QUESTIONS AND INFERENCES BASED ON REFUSAL TO RESPOND TO QUESTIONS

- The appellate officer(s) may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible.
- The appellate officer(s) will not draw an inference about whether sex discrimination and/or sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

DETERMINING CREDIBILITY

- The appropriate appellate officer(s) must determine the credibility of the evidence as well as the credibility of each party and witness.
- Credibility refers to the process of weighing the accuracy and veracity of evidence.
- Credibility and honesty are **not** the same.
 - Stating that evidence is not credible does not mean you are saying someone is lying.
 - Rather, you are evaluating the source, content, and plausibility of the information and evidence provided.
- Credibility gives weight to the evidence and provides support for the appropriate appellate officer(s)'s determination.
- Credible evidence must be used to determine responsibility.
- Credibility determinations may not be based on a person's status as a complainant, respondent, or witness.



DETERMINING CREDIBILITY (CONT.)

- When Determining Credibility:
 - Evaluate the source, content, and plausibility of the evidence and information offered in light of other evidence.
 - If the source, content, and plausibility are strong, credibility is strong.
 - The best way to establish credibility is through corroboration (i.e., sufficient, independent evidence that supports the facts at issue).
 - Look for subtle biases of which the parties and witnesses may not be aware (e.g., victim-blaming, defensiveness, fear of getting in trouble).
 - First-hand information, especially direct knowledge or observation of the alleged incident(s), is best.
- Factors to Consider:
 - Is the testimony/evidence believable? Does it make sense?
 - Are there inconsistencies and contradictions in the testimony/evidence?
 - Did the person seem to be telling the truth? Did the person have a reason to lie?
 - Is there other evidence that supports the testimony?
- **Remember:** A responsible determination can be reached when the **evidence** is **credible** and **sufficient** even if there were no witnesses to the alleged incident(s).

DISCIPLINARY SANCTIONS

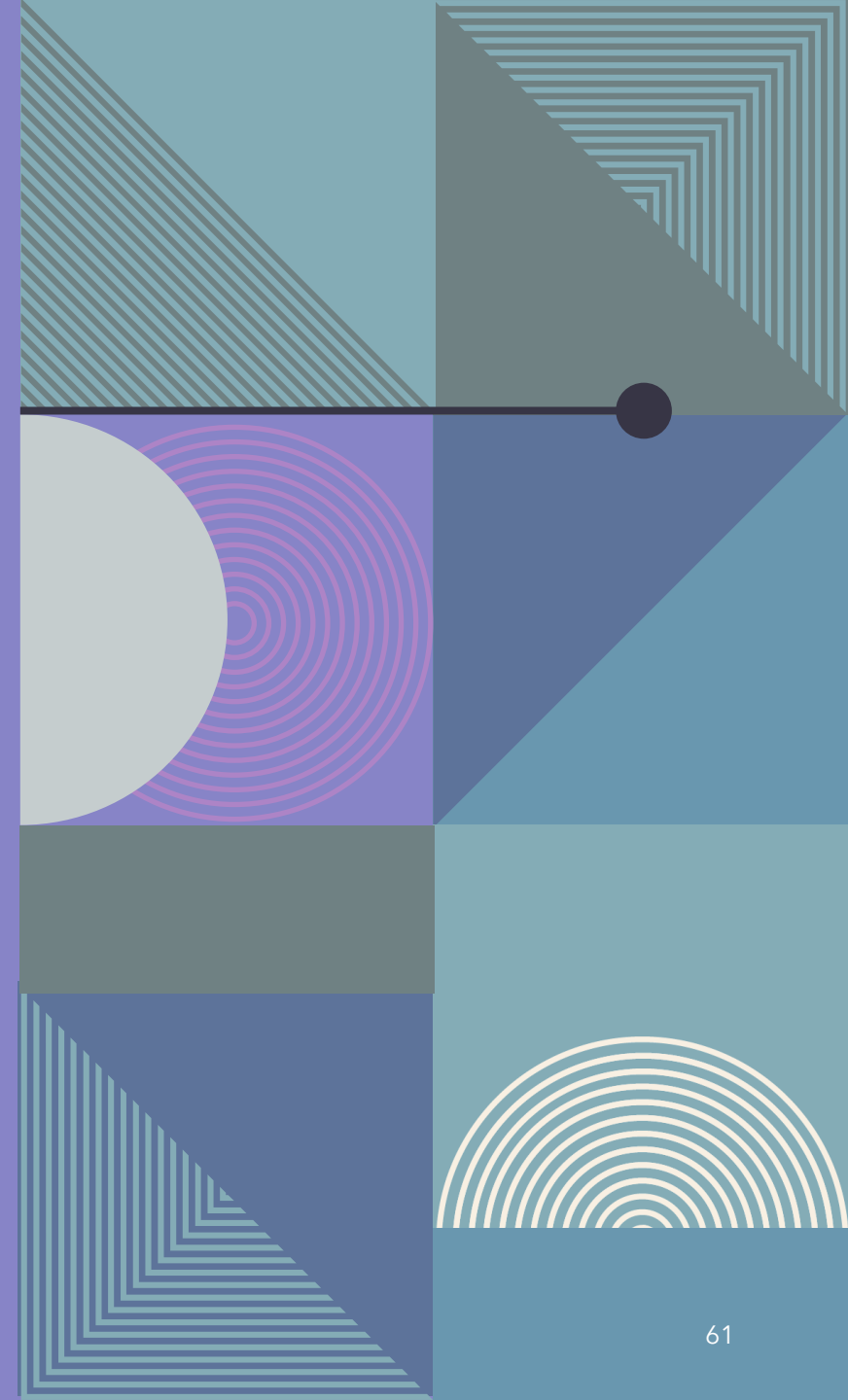
- Following a determination that sex discrimination and/or sex-based harassment occurred, the appellate officer(s) may impose the following penalties on a **student respondent** or other penalties, as appropriate:
 1. Reprimand
 2. Restitution
 3. Educational Project Experience (EPE)
 4. Conditional Probation for One (1) Calendar Year, Two (2) Calendar Years, or Three (3) Calendar Years
 5. Suspension for One (1) Regular Long Semester (i.e., Fall or Spring), One (1) Calendar Year, Two (2) Calendar Years, Three (3) Calendar Years, or Four (4) Calendar Years
 6. Recommendation for Expulsion
 - Note: The decision-maker(s) can recommend expulsion. However, the College District President is the only entity at Collin College who can actually expel a student.

DISCIPLINARY SANCTIONS (CONT.)

- Following a determination that sex discrimination and/or sex-based harassment occurred, the appellate officer(s) may impose the following penalties on an **employee respondent** or other penalties, as appropriate:
 1. Coaching and Counseling
 2. Written Disciplinary Action
 3. Unpaid Administrative Leave
 4. Recommendation for Termination
 - Note: The decision-maker(s) can recommend termination. However, the College District President is the only entity at Collin College who can actually terminate an employee.

REMEDIES

- Following a determination that sex discrimination and/or sex-based harassment occurred, Collin College may also provide remedies to a complainant and/or other people Collin College identifies as having had equal access to Collin College's education program or activity limited or denied by sex discrimination and/or sex-based harassment.
- The appellate officer(s) has flexibility to recommend remedies they think will best address each incident of prohibited conduct and meet each complainant's and/or other person(s)'s needs.
- The appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee is responsible for ensuring the effective implementation of any remedies.



REMEDIES (CONT.)

- Remedies the appellate officer(s) can offer to a student include, but are not limited to:
 1. Campus Change
 2. Class Schedule Change
 3. Drop a Course Without an Academic Penalty
 4. Increased Security and Staff Monitoring of Certain Areas of the Campus
 5. Information Regarding and Referrals to the Appropriate Agency for a No-Contact Order, Order of Protection, Restraining Order, or Similar Lawful Order through a Civil, Criminal, or Tribal Court
 6. Late Withdrawal from a Course
 7. No-Contact Directive Issued by Collin College
 8. Referral to Appropriate Medical Facility
 9. Referral to Appropriate Off-Campus Resources
 10. Referral to Collin College Police Department and/or Local Law Enforcement Agency
 11. Referral to Counseling Services
 12. Specific Educational Programming for an Individual or Group
 13. Student Employment Assignment Change
 14. Student Housing Change (If Residing in Collin College Student Housing)

REMEDIES (CONT.)

- Remedies the appellate officer(s) can offer to an **employee** include, but are not limited to:
 1. Drop a Course Without an Academic Penalty
 2. Increased Security and Staff Monitoring of Certain Areas of the Campus
 3. Information Regarding and Referrals to the Appropriate Agency for a No-Contact Order, Order of Protection, Restraining Order, or Similar Lawful Order through a Civil, Criminal, or Tribal Court
 4. No-Contact Directive Issued by Collin College
 5. Referral to Appropriate Medical Facility
 6. Referral to Appropriate Off-Campus Resources
 7. Referral to Collin College Police Department and/or Local Law Enforcement Agency
 8. Referral to Employee Assistance Program (EAP)
 9. Specific Educational Programming for an Individual or Group
 10. Work Schedule Reassignment

CALCULATING “COLLEGE DISTRICT BUSINESS DAYS”

- College District business days exclude:
 1. Weekends (i.e., Saturdays and Sundays)
 2. National holidays recognized by Collin College
 3. College District closures
- **Do not** count the day you send the documents.
- Examples:
 1. If you send the documents on **Monday, October 7, 2024**, the parties will have until **4:30 p.m. on Monday, October 21, 2024**, to submit an appeal.
 2. If you send the documents on **Wednesday, December 18, 2023**, the parties will have until **4:30 p.m. on Monday, January 13, 2024**, to submit an appeal due to the Winter Break.

QUESTION & ANSWER SESSION

