



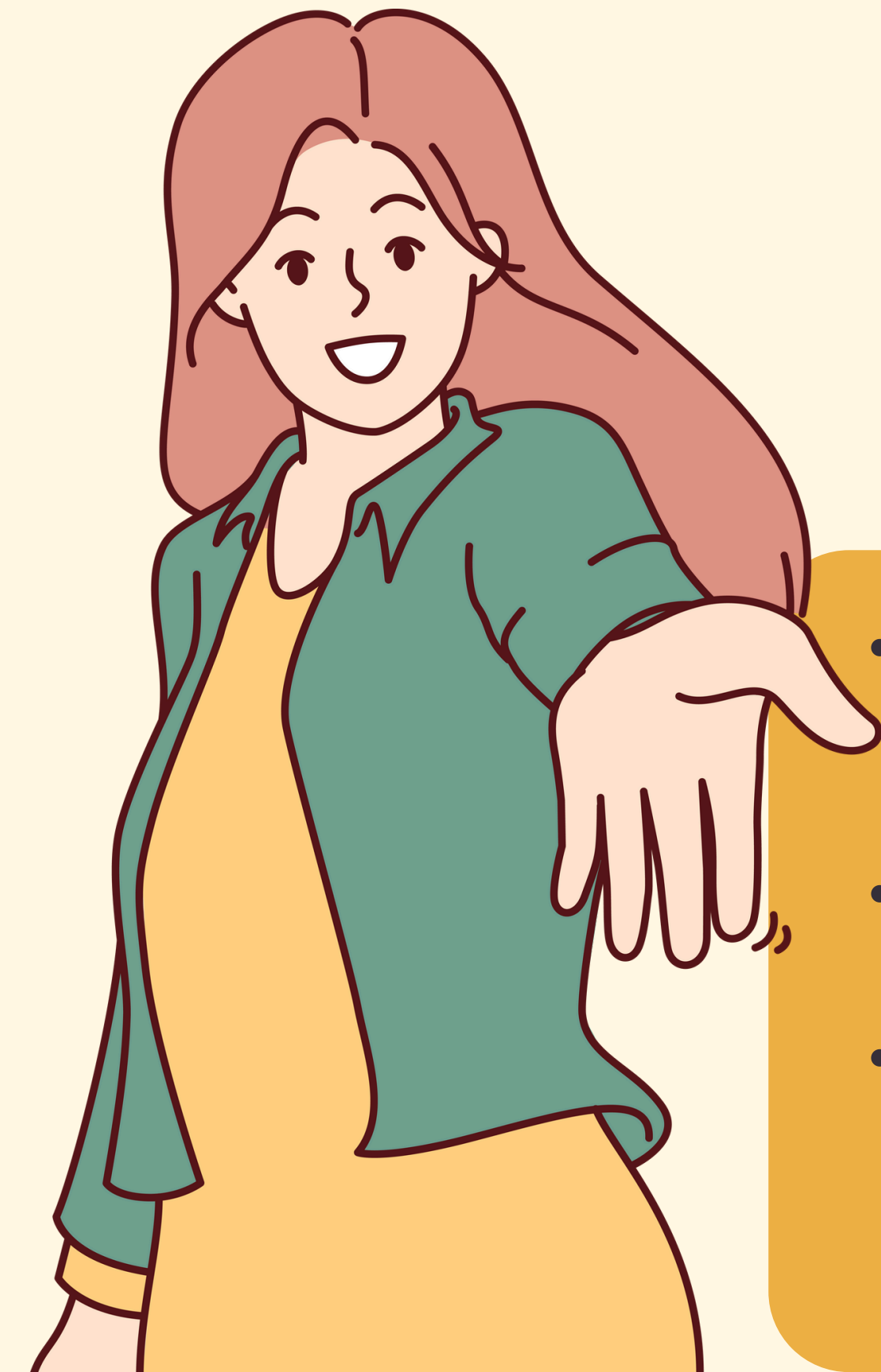
Advisor
Training
Title IX &
Civil Rights
Department

Napa Valley College

Advisor Responsibilities

Under the 2020 Title IX regulations, the role of an advisor in the grievance process is essential, particularly in the context of live hearings. Here's a breakdown of their responsibilities:

- **Both the complainant (alleged victim) and the respondent (alleged perpetrator) have the right to an advisor of their choice throughout the grievance process.**
- **The advisor can be anyone, including an attorney, a friend, a family member, or another individual chosen by the party.**
- **If a party does not have an advisor for the live hearing, the institution must provide one free of charge, though it does not have to be an attorney.**



Phases of the Process

Intake

- A complaint is made, but does not have to be formal yet.
- First stage where an advisor can be requested
- T9 & CV will only be talking to the complainant or possibly witnesses at this stage
- Supportive Measures may start at this time.

Investigation

- Requires a formal complaint signed by complainant
- If this is a T9 case, a notification will need to be sent to the complainant and respondent with the allegations, names, and locations/ times
- T9 & CV will be speaking to all involved individuals and creating a report laying out the evidence collected and the determinations as to credibility and culpability.

Hearing

- Findings have been released to complainant, respondent, and advisor. Advisor can review evidence with advisee and submit a written request to make any changes necessary.
- Advisor and advisee discuss what questions should be asked during the hearing by the advisor to best represent the advisee
- All parties and advisors attend an in-person hearing with an administrative decision maker where the advisor advocates for the advisee.

Appeal

- If requested by advisee, advisor can help them put together a written appeal following the decision made in the hearing.
- If the appeal meets the criteria from APs, all parties will meet once more for a hearing where the board presides.



Role in the Intake/ Investigative Phase

- **Advisors can attend meetings, interviews, and proceedings related to the case but cannot actively participate in them.**
- **Their role is limited to providing support and guidance to their advisee.**
- **Advisors may not answer questions on behalf of the party during the investigation stage.**

Focus on how you can emotionally support your advisee during this part of the process and taking privacy seriously.

Role in Live Hearing/ Appeal



- **The primary role of the advisor at the live hearing is to conduct cross-examination of the other party and witnesses.**
- **The parties themselves are not permitted to directly cross-examine each other.**
- **Cross-examination must be conducted directly, orally, and in real-time by the advisor.**
- **If an advisor refuses to conduct cross-examination, the institution must appoint a different advisor to do so.**

Institutional Obligation

- **The institution must allow the advisor to be present but can establish rules of decorum to maintain order during proceedings.**
- **If an advisor becomes disruptive or refuses to follow the rules, they can be removed or replaced.**
- **Schools are not required to provide legal representation, only an advisor who can conduct cross-examination.**



Advisor's Key Responsibilities

Support the Advisee

Offer emotional support and procedural guidance.

Attend Meetings & Interviews

Be present for all proceedings but do not participate in discussions

Conduct Cross-Examination

Ask relevant questions on behalf of the party

Follow Institutional Rules of Decorum

Ensure professional conduct.

Understand Greivance Process

Be familiar with the Title IX/ Civil Rights process, rights of the party, and evidentiary standards

Do's

- **Accompany your advisee to all meetings (investigative interviews, evidence review, pre-hearing meetings).**
- **Take notes for your advisee.**
- **Provide emotional support and help the advisee process information.**
- **Help your advisee review and understand the evidence.**
- **Assist your advisee to inspect and respond to the evidence before the hearing.**
- **Prepare responses or questions for the hearing with your advisee**



Don't's

- **Speak on behalf of the advisee.**
- **Interrupt or disrupt proceedings.**
- **Discuss the content of any proceedings with anyone outside the Title IX & Civil Rights Office**



Crafting Effective Cross-Examination Questions

- **Questions must be relevant (not about past sexual history unless it meets a recognized exception).**
- **Questions should help clarify inconsistencies or credibility concerns.**
- **Example types of questions:**
 - **Clarification:** "Can you explain what you meant when you said...?"
 - **Timeline Checks:** "You stated the event happened at 10 p.m., but your text message indicates you were elsewhere at that time. Can you clarify?"
 - **Challenging Credibility:** "You mentioned you were intoxicated. Do you recall details with certainty?"



Rules of Decorum and Ethics



Institutional Rules of Decorum

- Advisors must remain professional and respectful.
- No yelling, badgering, or personal attacks.
- Institutions may remove advisors who violate decorum rules.

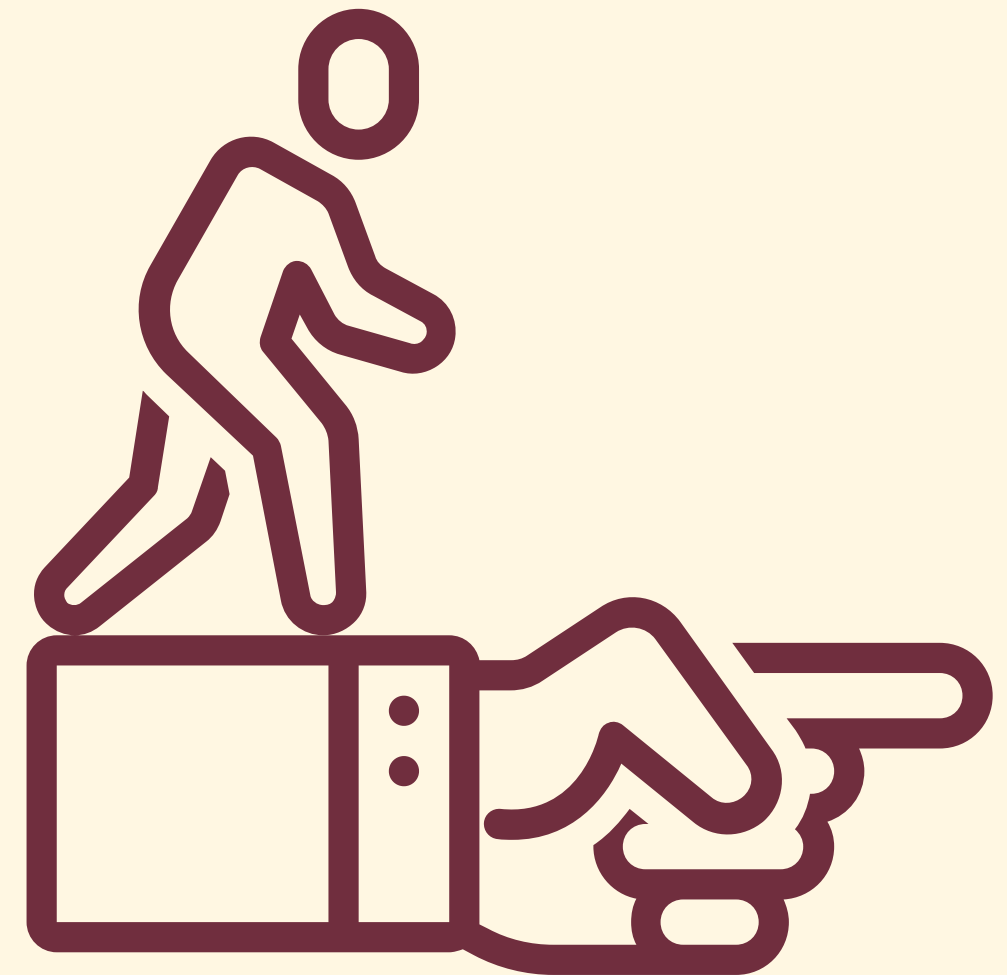
Confidentiality & Ethics

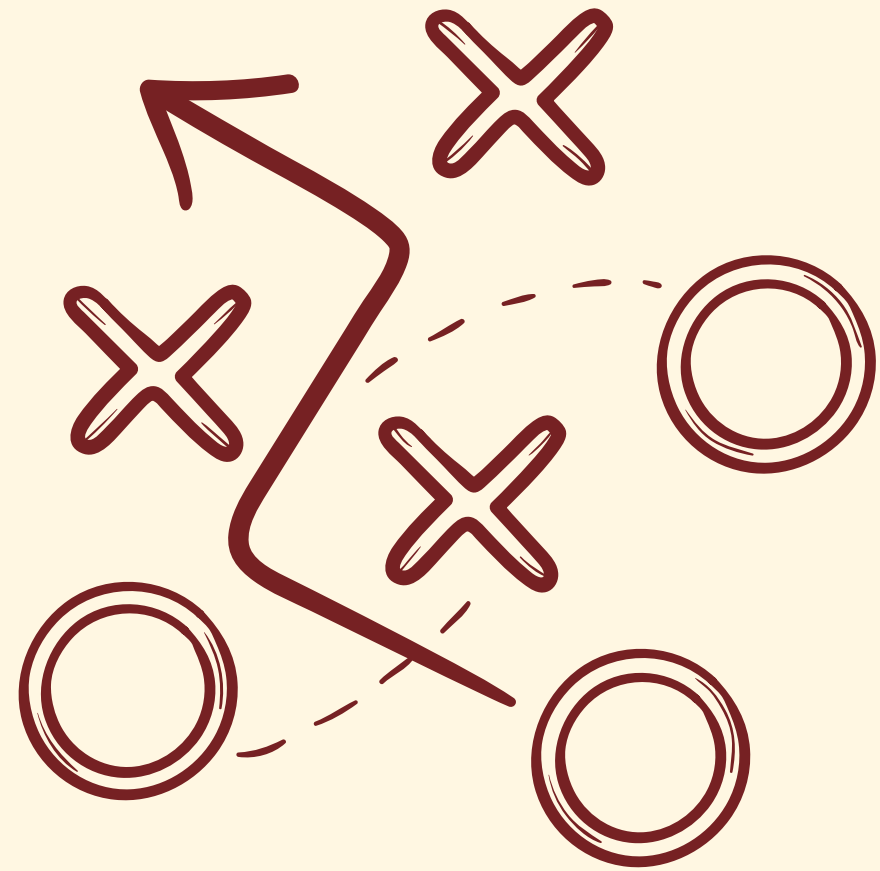
- Advisors must maintain confidentiality in accordance with FERPA (Family Educational Rights and Privacy Act).
- Information cannot be shared outside the case.

What If My Advisee's Rights Are Violated?

If you question whether or not your advisee is being treated fairly and according to policy, the first place to look is in AP 3435. Consulting the listed procedures, will allow you help direct your advisee appropriately.

The following are some potential scenarios that may arise and proposed responses for advisors to help you calibrate.





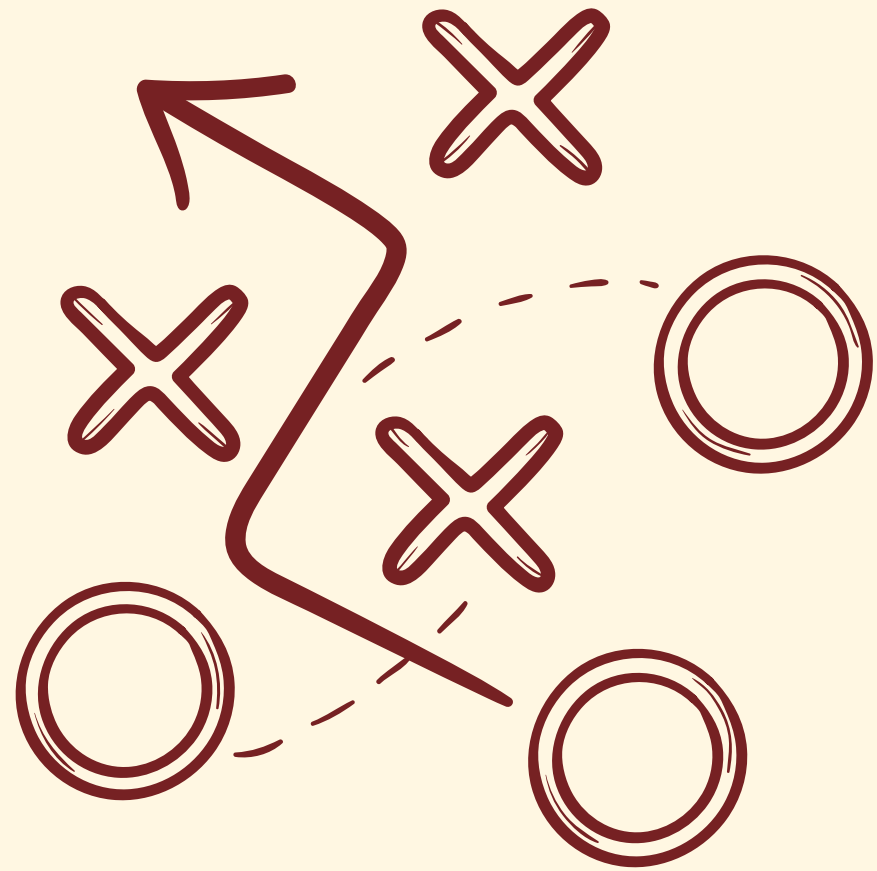
Scenario 1

Situation

During the live hearing, the advisor asks a relevant question, but the decision-maker improperly dismisses it without a valid reason.

Advisor Response

- 1. Politely request clarification from the decision-maker:**
 - **“Respectfully, could you clarify why this question is deemed irrelevant? The regulations require relevance determinations to be explained on the record.”**
- 2. If necessary, rephrase the question to make its relevance clearer.**
- 3. If the issue persists, document the decision and advise the party about possible appeal options.**



Scenario 2

Situation

The decision-maker or panel members make inappropriate comments, show clear bias, or treat one party unfairly during the hearing.

Advisor Response

- 1. Politely but firmly request fairness on the record:**
 - **“I want to note that the decision-maker has repeatedly interrupted my advisee but not the other party. We request equal treatment in accordance with Title IX regulations.”**
- 2. Request a recusal if bias is evident:**
 - **“Given the repeated indications of bias, we request that the decision-maker be recused and replaced.”**
- 3. Document the bias for potential appeal or OCR (Office for Civil Rights) complaint.**

Scenario 3

Situation

The decision-maker or panel members apply the clear and convincing evidence standard instead of the preponderance of evidence standard

Preponderance of Evidence:

- This standard means that something is more likely than not to have happened (i.e., greater than 50% probability).
- If the evidence suggests that there is at least a 51% likelihood that the alleged misconduct occurred, the decision-maker should find responsibility under Title IX.

Clear and Convincing:

- This standard requires evidence that shows a high probability that the claim is true (typically around 75% or higher certainty).
- It is a more demanding burden than preponderance but less than the criminal standard of "beyond a reasonable doubt."

Advisor Response

1. Request Immediate Clarification:

- "Under the institution's Title IX policy, the preponderance of the evidence standard must be applied. However, it appears that a higher standard of 'clear and convincing evidence' is being used. Could we confirm that the correct standard will be followed?"

2. Object on the Record:

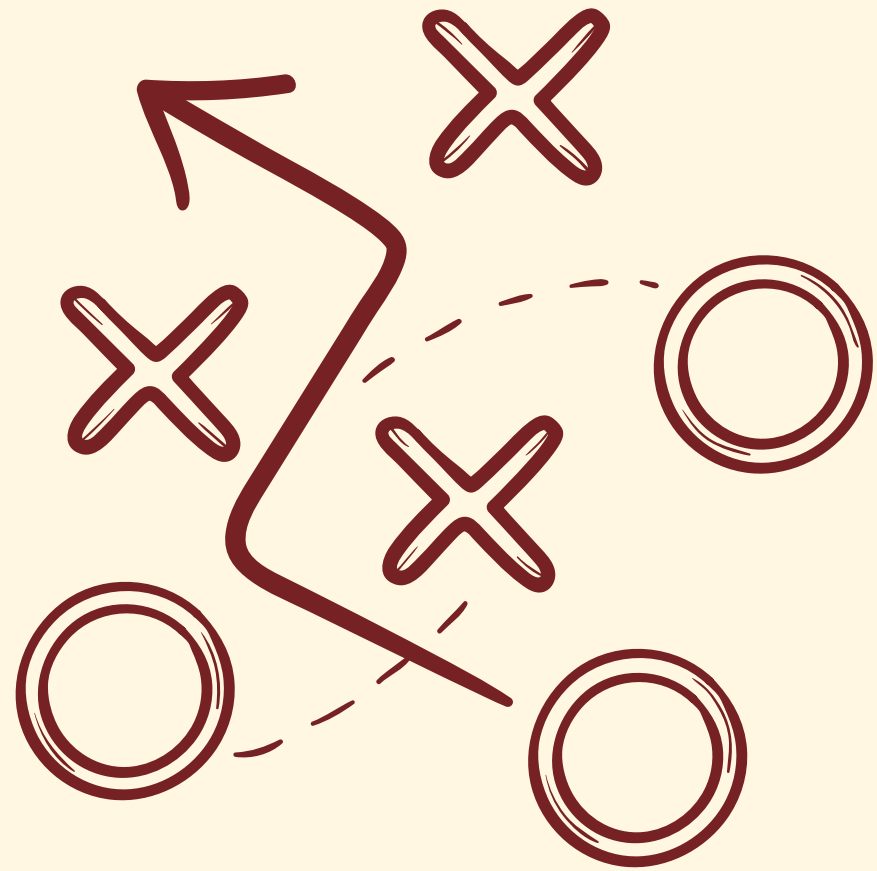
- "I would like to formally note that using a higher standard of evidence is a procedural error and may impact my advisee's right to a fair process."

3. Document the Error for Appeal:

- If the institution incorrectly applies clear and convincing evidence, it constitutes a due process violation and can be used as grounds for appeal.

The appeal should state:

- The institution failed to follow its own procedures.
- The improper standard impacted the outcome of the case.
- A new determination using the correct standard should be required.



Scenario 4

Situation

The decision-maker allows questions or evidence about a party's sexual history, which is prohibited except in narrow exceptions (e.g., to prove consent with the same person or to prove someone else committed the misconduct).

Advisor Response

1. Object to the improper questioning:

- **“Under Title IX, prior sexual history is generally not relevant unless it falls under a recognized exception. I request that this line of questioning be excluded.”**

2. If the decision-maker allows it, document the issue and prepare for appeal.

Appeal Process

Grounds

- **New Evidence** – Relevant information that was not available during the original investigation.
- **Bias or Conflict of Interest** – If the Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias that affected the outcome.
- **Unreasonable Sanctions** – If the discipline imposed does not match the severity of the violation.

Method

The appeal must be in writing and include:

- The specific reason for the appeal (from the list above).
- Any supporting documents or evidence.
- A request for a specific outcome (e.g., a new investigation, modified sanctions, etc.).

The appeal can be submitted to:

- The District's Title IX Coordinator
- The Board of Trustees

Timeframe

- The complainant or respondent must submit a written appeal within 15 days of receiving the administrative determination.
- The appeal should be addressed to the Board of Trustees.

Outcome

If the Board does not act within 45 days, the original administrative determination becomes final. To continue the process, you can:

- Submit a written appeal within 30 days after the Board's final decision to the California Community Colleges Chancellor's Office. The Chancellor's Office will process the appeal under Title 5, Section 59350.
- If the complaint involves employment discrimination or workplace harassment, the complainant may also file a complaint with:
 - The Department of Fair Employment and Housing (DFEH)
 - The U.S. Equal Employment Opportunity Commission (EEOC)

**Thank you for your
commitment to our
community!**

End of Orientation

Contact
Us

Kelly Tomlinson
kelly.tomlinson@napavalley.edu

(707) 256-7198

Savanna Petri
savanna.petri@napavalley.edu