SEX DISCRIMINATION & SEXUAL MISCONDUCT POLICY AND TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES

LAKE FOREST COLLEGE

2023-2024

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Sex Discrimination and Sexual Misconduct Policy

I. TITLE IX SCOPE, APPLICABILITY, AND NOTICES

POLICY STATEMENT AGAINST DISCRIMINATION ON THE BASIS OF SEX, SEXUAL ORIENTATION GENDER, AND GENDER IDENTITY

Under this policy, Lake Forest College prohibits discrimination on the basis of sex, sexual orientation, gender, and/or gender identity in any College program or activity, consistent with Title IX of the Educational Amendments of 1972, Title VII of the Civil Rights Act of 1964, and other applicable state and federal laws. Sexual misconduct, including sexual harassment, non-consensual sexual penetration and/or contact, sexual exploitation, stalking, dating violence and domestic violence, are forms of sex discrimination that may deny or limit a College community member's ability to participate in the College's programs or activities.

The College provides awareness and prevention education and training programs regarding sex, sexual orientation, gender, and gender identity-based discrimination, encourages the reporting of discriminatory behavior, provides timely services to those who have been affected by discrimination, and utilizes prompt and equitable methods of investigation and resolution to stop discrimination, remedy harm caused by discrimination, and prevent recurrence of discrimination. Violations of this Policy may result in the imposition of sanctions up to and including termination or dismissal from the College.

NOTICE OF NONDISCRIMINATION

Lake Forest College does not discriminate on the basis of race, color, religion, national origin, ancestry, sex, pregnancy, sexual orientation, gender identity, gender expression, parental status, marital status, age, disability, citizenship status, work authorization status, military or veteran status, unfavorable discharge from military service, order of protection status, arrest record, or any other classification protected by law in matters of admissions, employment, housing, or services or in the educational programs or activities it operates.

Lake Forest College complies with federal and state laws that prohibit discrimination based on the protected categories listed above, including Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex (including sexual misconduct) in the College's educational programs and activities.

Lake Forest College provides reasonable accommodations to qualified applicants, students, and employees with disabilities and to individuals who are pregnant. Access the full Lake Forest College Notice of Nondiscrimination here.

Any inquires or concerns with respect to sex discrimination, sexual misconduct, harassment, Title IX, and the College's Title IX policies and procedures may be directed to:

- LaShun McGhee, Title IX Coordinator; 555 North Sheridan Road, Lake Forest, IL 60045; 847-735-6009; TitleIX@lakeforest.edu.

Any inquiries or concerns regarding Title VI (prohibiting discrimination based on race, color, or national origin), Section 504 of the Federal Rehabilitation Act of 1973 (prohibiting discrimination

based on disability), or the College's Non-Discrimination Policy and Complaint Resolution Procedures may be directed to:

- Agnes Stepek, Director of Human Resources and Campus Coordinator for Section 504, 555 North Sheridan Road, Lake Forest, IL 60045, 847-735-5036, stepek@lakeforest.edu.

Individuals may also contact the U.S. Department of Education's Office for Civil Right for information.

- Office for Civil Rights, U.S. Department of Education-Chicago Office, 550 W. Madison St. Suite 1475, Chicago, IL 60661-4544, 312-730-1560, ocr@ed.gov.

This Policy has been updated to reflect the requirements of the 2020 Title IX Regulations ("Title IX"), which became effective on August 14, 2020. (s*ee Policy & Posting, Section XII*); *Refer to the College website for the most recent version of this Policy and Procedures.*

STATEMENT OF COMMITMENT TO TRANSGENDER INDIVIDUALS

When a student or employee notifies the College that the student or employee's gender identity is different from previous representations or records, the College will begin treating that individual consistent with the individual's gender identity. To that end, the College will use pronouns and names as requested by the transgender individual in person and in student and employment records going forward. Requests to amend previously existing student or employment records will be handled pursuant to the Family Educational Rights and Privacy Act and/or other relevant law and consistent with record amendment requests made by all other students and employees. Moreover, transgender individuals will be permitted access to sex segregated facilities (such as bathrooms, residence halls and/or locker rooms) consistent with their gender identity. Transgender students may participate in the College's single sex NCAA athletics programs as set forth in the NCAA guidelines regarding the same. Transgender students may participate in the College's single sex non-NCAA athletics programs consistent with their gender identity.

SCOPE AND APPLICABILITY OF POLICY

This Policy and the accompanying procedures address sex discrimination and sexual misconduct, including sexual harassment as prohibited by the 2020 Title IX Regulations. When considering sexual harassment as defined in the 2020 Title IX Regulations this Policy will be referred to as "*Title IX Sexual Harassment" or "Policy"*. For allegations and complaints of *Title IX Sexual Harassment*, as defined in this Policy, the Policy applies only to sex discrimination, sexual harassment against a person in the United States within programs controlled by and in jurisdiction of the College, and the accompanying *Interim Title IX Sexual Harassment Complaint Resolution Procedures* for *Title IX Sexual Harassment* are as required by the 2020 Title IX regulations.

This Policy applies to all members of the College community, including students, faculty, staff, administrators, board members, contractors, vendors, applicants, volunteers, and visitors, regardless of their sex, sexual orientation, gender, or gender identity.

For allegations and complaints of sex discrimination and/or sexual misconduct other than *Title IX Sexual Harassment,* as defined in this Policy, the Policy applies to on-campus conduct and to off-campus conduct, including online or digital conduct, when the off-campus conduct: (i)

occurs during a College sponsored employment or education activity or program; or (ii) adversely impacts the education, employment, or health and/or safety of a member of the College community or creates a hostile environment on campus.

- **Discrimination & Harassment.** Complaint resolution procedures for allegations and complaints of sex discrimination and/or sexual misconduct other than *Title IX Sexual Harassment*, as defined in this Policy, are managed under the Lake Forest College Discrimination and Harassment Policy. This includes sexual misconduct outside of the *Title IX Sexual Harassment* jurisdiction, and sexual misconduct, if proven, that does not reach the *Title IX Sexual Harassment* thresholds. Other types of misconduct including sexual harassment as defined by the Title VII of the Civil Rights Act will be processed under the Discrimination and Harassment Policy and Procedures for Students, Faculty, and Staff. Sexual harassment under the Discrimination and Harassment Policy occurs when the harassing behavior is so severe, or pervasive that it unreasonably interferes with an employees work or a student's performance, or creates a hostile, intimidating, or offensive work or learning environment.

Students and employees are subject to local, state, and federal laws while at the College, and violations of those laws may also constitute violations of this Policy. In such instances, the College may proceed with investigations under this Policy and its corresponding complaint resolution procedures independently of any criminal or civil proceedings involving the same conduct. The College may impose sanctions for violations of this Policy even if criminal or civil proceedings regarding the same conduct are not yet resolved or are resolved in the accused's favor.

Where a student group or organization has engaged in behavior that violated this Policy or created a hostile environment under this Policy, the student group or organization is subject to discipline and sanctions.

The College may impose sanctions for sexual discrimination or misconduct that takes place from the time an individual applies for enrollment as a student, until such time as the student graduates or otherwise separates from the college. Additionally, the College may impose sanctions for sex discrimination or sexual misconduct that takes place from the time an individual applies for employment, until such time as the employee ceases employment. In reports involving allegations against individuals who are not affiliated with the College at the time of the complaint, the College will assess whether the individual may pose a risk to the safety or well-being of members of the College community and take measures it deems appropriate to mitigate this risk or as otherwise needed to achieve the goals of this Policy.

Conduct that does not meet the definition of *Title IX Sexual Harassment* may still violate other policies or expectations for appropriate/professional conduct and may result in discipline. Title IX sexual harassment regulations have a preemptive effect on state and local law, to the extent there is a conflict between the laws.

Further information about Title IX and sex discrimination in education is available from the College's Title IX Coordinator as set forth in the Nondiscrimination Section (*see Policy Scope, Section-I above)* and/or:

External:

- The Office for Civil Rights
  U.S. Department of Education-Chicago Office

John C. Kluczynski Federal Building 230 S. Dearborn Street, 37th Floor Chicago, IL 60604 or 550 W. Madison St. Suite 1475, 60661-4544
312-730-1560, OCR.Chicago@ed.gov

- Illinois Sexual Harassment & Discrimination Helpline: 877-236-7703

ACADEMIC FREEDOM

Lake Forest College is committed to the principles of academic freedom. Rigorous discussion and debate are fundamental to the College's educational mission, and this Policy is not intended to restrict teaching methods, course content, or the processes of intellectual inquiry and debate. The fact that speech or a particular expression is offensive is not, standing alone, a sufficient basis to establish a violation of this Policy. To constitute a violation of this Policy, speech or expression taking place in the teaching context must be severe or persistent, not germane to the subject matter, and must impair or impede the College's educational mission or be used to disguise, or as a vehicle for, prohibited misconduct.

ROLE OF TITLE IX COORDINATOR

The College has a designated Title IX Coordinator trained in the College's policies and procedures, state and federal law, and other issues related to sex discrimination and sexual misconduct to manage the College's compliance with Title IX. Specifically, the Title IX Coordinator is:

- Responsible for coordinating the College's efforts to comply with applicable federal and state law;
- Responsible for coordinating the effective implementation of supportive measures and implementing remedies arising from this Policy and Procedures;
- Oversees the assessment and review, investigation and/or resolution of all complaints of misconduct under this Policy and other relevant polices but does not serve as a decision-maker in the hearing or appeal processes;
- Advises Complainants (individuals who are alleged to be the victim of misconduct), Respondents (individuals alleged to be the perpetrator of alleged misconduct), and/or third parties regarding support resources and options available through the College or off- campus, including options for resolving complaints of sex discrimination and sexual misconduct;
- Provides training and assistance to faculty, staff, and student employees regarding how to appropriately respond to a report of misconduct under this Policy;
- Develops and updates College policies, procedures, websites, and resources addressing sex discrimination and sexual misconduct;
- Assesses campus climate, tracks and monitors sexual misconduct allegations, addresses any systemic issues, and reports findings to College officials and/or the campus community, where appropriate;
- Ensure Title IX professionals assisting with remedy and redress of *Title IX Sexual Harassment* and other misconduct are trained in response, support, and decision-making.
- Prepares required federal and state compliance reports and;

- Oversees sex discrimination and sexual misconduct education efforts for the campus community, including training in implementing this Policy and the corresponding Procedures.

The Title IX Coordinator can be reached as follows:
LaShun McGhee
Title IX Coordinator
Lake Forest College- Rosemary House
555 N. Sheridan Rd.
Lake Forest, IL 60045
titleix@lakeforest.edu

II. PROHIBITED CONDUCT

In determining whether alleged misconduct constitutes a violation of this Policy, the College will consider the totality of the facts and circumstances of the incident, including the nature of the alleged misconduct and the context in which it occurred. Any of the prohibited misconduct set forth in this Policy can occur between strangers or acquaintances, individuals involved in intimate or sexual relationships, and individuals of any sex, gender, sexual orientation, and/or gender identity. In addition, some of the prohibited misconduct also violates the criminal laws of the State of Illinois. For more information regarding Illinois' criminal laws, please consult the College's Annual Security Report available online or in print at the Department of Public Safety.

DEFINITIONS

Sexual Misconduct. The following offenses are considered sexual misconduct and are prohibited by the College. Attempts to commit prohibited conduct listed below, or assisting or encouraging any such conduct, are also considered violations of this Policy.

Sexual Harassment. *Title IX Sexual Harassment*, as defined by the 2020 Title IX Regulations, is conduct on the basis of sex that is:

- Taken against a person in the United States;
- Occurs in an education program or activity; and
- Satisfies one or more of the following:

1) *Quid Pro Quo Harassment* -- An employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;

2) *Hostile Environment* -- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity;

3) "Sexual assault," "dating violence," "domestic violence," or "stalking," as defined by this Policy.

Dating Violence. Dating violence, as defined in 34 U.S.C. 12291(a)(10), is violence or the threat of violence (including but not limited to sexual or physical abuse) by another person with whom the individual is or has been in a social relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on a consideration of the following factors:

- the length of the relationship
- the type of relationship and
- the frequency of interaction between the persons involved in the relationship.
- Sexual abuse includes sexual penetration without consent, sexual contact without consent, incest, and statutory rape. Physical abuse includes physical violence, which is the intentional use of physical force (e.g., shoving, choking, shaking, slapping, punching, burning, or use of a weapon, restraints, or one's size and strength against another person) with the potential for causing death, disability, injury, or substantial physical harm. Dating violence may include psychological/emotional abuse (e.g., isolating the victim from friends and family or denying access to money or other basic resources) if it is preceded by, or done in conjunction with, physical violence or the threat thereof.

Domestic Violence. Domestic Violence for purposes of this policy may also be referred to as Intimate Partner Violence (IPV). Domestic violence, as defined in 34 U.S.C. 12291(a)(8), is a felony or misdemeanor crime of violence or the threat of violence (including but not limited to sexual or physical abuse) committed by a current or former spouse or intimate partner of the individual, by someone with whom the individual shares a child in common, by someone who is cohabitating with or has cohabitated with the individual as a spouse or intimate partner, by a person similarly situated to a spouse of the victim, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Illinois or the laws of the jurisdiction in which the crime was committed.

- Complaints of violence between cohabitating individuals who do not meet this definition (i.e. roommates) are addressed under other applicable College policies.
- Sexual abuse includes sexual penetration without consent, sexual contact without consent, incest, and statutory rape.
- Physical abuse includes physical violence, which is the intentional use of physical force (e.g., shoving, choking, shaking, slapping, punching, burning, or use of a weapon, restraints, or one's size and strength against another person) with the potential for causing death, disability, injury, or substantial physical harm. Domestic violence may include psychological/emotional abuse (e.g., isolating the victim from friends and family or denying access to money or other basic resources) if it is preceded by, or done in conjunction with, physical violence or the threat thereof.

Sexual Assault. Sexual assault as defined in 20 U.S.C. 1092(f)(6)(A)(v), is an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation (FBI). This includes forcible rape and forcible fondling.

1) **Forcible rape**. Forcible rape is defined as any sexual penetration, no matter how slight, of the vagina or anus or any bodily opening with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim and committed by force, threat, coercion, or through exploitation of another's condition of which Respondent was aware or which a reasonable person would have been aware.
2) **Forcible fondling** is defined as the touching of the private body parts of another person for the purpose of sexual gratification, 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 their youth or because of their temporary or permanent mental or physical incapacity.

3) **Incest**. Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by the laws of the state in which the incident occurred.

For purposes of this Policy, sexual assault also includes sexual battery, sexual abuse, and sexual coercion.

Stalking. Stalking is, as defined in 34 U.S.C. 12291(a)(30), a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety (or the safety of a third person) or suffer substantial emotional distress.

- A "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens, communicates to or about a person, or interferes with a person's property.
- "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical treatment of professional counseling.

- **Cyberstalking**. This definition incorporates the concept of cyber-stalking, which employs the use of the internet, social media, blogs, texts, cell phones, or other similar devices or forms of communication.
  Examples of stalking behaviors that can contribute to a course of conduct include, but are not limited to:
  - Following a person;
  - Being or remaining in close proximity to a person;
  - Entering or remaining on or near a person's property, residence, or place of employment.
  - Monitoring, observing or conducting surveillance of a person;
  - Threatening (directly or indirectly) a person;
  - Communicating to or about a person;
  - Giving gifts or objects to, or leaving items for, a person;
  - Interfering with or damaging a person's property (including pets); or
  - Repeated electronic communications, including via social media (i.e., cyberstalking).

Gender-Based Harassment. Gender-based harassment includes acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on gender, sex, or sex-stereotyping, even if those acts do not involve conduct of a sexual nature. Use of the term "sexual harassment" throughout this Policy includes gender-based harassment.

Sex Discrimination. Sex discrimination is adverse treatment of an individual based on sex, sexual orientation, gender, gender expression, or gender identity. Sex discrimination encompasses sexual misconduct, as defined below, but also includes other behavior that does not constitute sexual misconduct. Use of the terms "sex discrimination" and/or "gender discrimination" throughout this Policy includes sexual orientation-based and gender identity-based discrimination as well as discrimination based on sex-stereotyping.

Sexual Exploitation. Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another individual(s) for personal benefit, or to benefit anyone other than the individual being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses in this Policy. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another person or otherwise recruiting, providing, or obtaining another person for purpose of sexual exploitation;
- Non-consensual photographing, video or audio-taping of sexual activity;
- Distributing intimate or sexual information, images, or recordings about another person without that person's consent (applies even if the videos were obtained with consent);
- Observing or permitting others to observe sexual activity of another person without that person's consent;
- Knowingly transmitting a sexually transmitted infection (STI) to another without disclosing STI status;
- Exposing one's genitals in non-consensual circumstances and/or inducing another to expose their genitals; or
- Inducing incapacitation in another person with the intent to engage in sexual activity.

Sexual Orientation-Based/Gender Identity-Based Harassment. Sexual orientation-based or gender identity-based harassment includes verbal, non-verbal, and physical acts of aggression, intimidation, or hostility based on an individual's actual or perceived sexual orientation or gender identity (gender, gender identity, and gender expression). Use of the term "sexual harassment" throughout this Policy includes sexual orientation-based and gender identity-based harassment.

RELATED DEFINITONS and ELEMENTS

Consent. Lack of consent is a critical factor in determining whether sexual assault has occurred. Consent is informed, freely given, and a mutually understood agreement to sexual activity. Consent requires an affirmative act or statement by each participant.

Consent is:

- Expressed through affirmative and voluntary words or actions that are mutually understandable to all parties involved;
- Freely given for a specific sexual act at a specific time; and
- Can be withdrawn at any time.

Consent cannot be:

- Coerced or compelled by duress, threat, or force, or fraudulently obtained through misrepresentation;
- Given, nature, extent or implications of the sexual situation occurring, including, but not limited to, those who are under the legal age of consent (17 years in Illinois [1]), asleep, unconscious, mentally or physically incapacitated through the effects of drugs or alcohol, or mentally impaired due to an intellectual or other disability;

[1] *Except in cases of child sexual abuse as defined by the Illinois Abused and Neglected Reporting Act, where the age of majority is age 18 (see Policy-Other Related Policies, Section-IX).*

- Assumed based on silence, the absence of verbal or physical resistance, an individual's manner of dress, the existence of a prior or current relationship, consent to prior sexual activity, or consent to sexual activity with another individual; and/or
- Given by a third party.
- A person's lack of verbal or physical resistance or submission resulting from the use or threat of force does not constitute consent, a person's manner of dress does not constitute consent, consent in prior situations does not constitute consent to future sexual activity, and a person's consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another.

Coercion. When coercion exists, an individual's consent to sexual activity is not voluntary. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Means of coercion may include, but are not limited to, severe or persistent pressure, direct or implied threats of force, retribution, or significant harm, or emotional intimidation. Coercion is evaluated based on the intensity, frequency, and duration of the comments or actions.

Incapacitation. Incapacitation means the physical, mental, or legal inability to make informed, rational judgments. An individual may be incapacitated due to alcohol or drug use, sleep, lack of consciousness, age under the legal age of consent, intellectual or other disability, or other factors that impair their ability to understand the "who, what, why, when, where, or how" about specific sexual activity. Where alcohol or other drugs are involved, incapacitation is determined by how the alcohol or drugs consumed impact a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. No single factor alone is determinative of incapacitation. Some common signs that someone is incapacitated may include:

- Slurred speech
- Smell of alcohol on breath
- Confusion
- Shaky balance
- Stumbling or falling down
- Vomiting
- Combativeness or emotional volatility
- Outrageous or unusual behavior
- Unconsciousness

When determining whether consent was present, the College will consider whether the Respondent knew, or a sober, reasonable person in the position of the Respondent, knew or should have known that the Complainant was incapacitated. Because incapacitation may be difficult to discern (for example, an individual may experience a blackout state in which they appear to give consent, but do not have the ability to make an informed rational decision about sexual activity), individuals are strongly encouraged to err on the side of caution, (i.e., when in doubt, assume that another person is incapacitated and therefore unable to give consent). Being intoxicated or under the influence of drugs is never a defense to a complaint of sexual misconduct under this Policy.

- Under Illinois law someone is unable to give consent when intoxicated, even when the accused Respondent didn't provide the substance that intoxicated them.

See page 23, Interim Title IX Sexual Harassment Complaint Resolution, for other definitions related to the procedures.

III. COMPLAINANT AND RESPONDENT POLICY INFORMATION

Important Policy and Procedural Rights

Upon receiving a report of sexual misconduct, the College will provide the Complainant with a concise written guide of on and off-campus resources and important information on Complainant's rights, options, and available resources, victim advocacy, confidential advisors, and a description of the College's complaint resolution. Other available resources are accessible on the website: http://www.lakeforest.edu/title-ix/support-and-help and will be included in the digital response to complainant if report is submitted online or shared directly if informed via email or in-person..

The College will provide written information to Complainants and Respondents about rights, counseling, health, mental health, legal assistance, visa and immigration assistance, student financial aid, and other relevant college and community resources.

AMNESTY

Amnesty for Sexual Misconduct Complainants and Witnesses. The College encourages the reporting of sexual misconduct and seeks to remove barriers to an individual making a report. The College recognizes that a student who has been drinking or using drugs at the time of the incident may be hesitant to make a report because of the potential disciplinary consequences. Therefore, a student who reports sexual misconduct, either as a Complainant or witness, will not be subject to disciplinary action by the College for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that such consumption did not or does not place the health or safety of any other person at risk.

FALSE REPORTING

False Reporting or Testimony. Reports of sexual misconduct that are found to be intentionally false or made maliciously without regard for truth shall constitute a violation of this Policy. This provision does not apply to reports made in good faith, even if the allegations in the report are not substantiated through an investigation. Likewise, a Party or witness who intentionally provides false or misleading testimony may be subject to disciplinary action under this or other relevant College Policy.

REPORTING TIME FRAME

There is no explicit time limit for filing a report. However, Complainants are encouraged to report behavior as soon as possible to maximize the College's ability to respond promptly and effectively to provide remedies.

SUPPORTIVE MEASURES

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent, before or after the filing of a complaint or where no complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other Party, including measures designed to

protect the safety of all parties or the college's educational environment, or deter discrimination or harassment. Supportive measures may include:

- Referral to the Health and Wellness Center (students) or the Employee Assistance Program (employees)
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services and/or changes to campus transportation arrangements
- Dining accommodations
- Mutual restrictions on contact between the parties, (Campus No Contact Order-*NCO*)
- Changes in work or housing locations
- Campus "No-Trespass Orders" against employees, students, and third parties
- Assistance in obtaining and/or enforcing a court-issued Stalking No Contact or other Orders of Protection
- Leaves of absence
- Increased security and monitoring of certain areas of the campus, and/or
- Other similar measures.

The College must maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. Requests for supportive measures may be made to the Title IX Coordinator. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Where a disclosure has been shared with a Confidential Advisor, the Confidential Advisor will assist with supportive measures, but may need to confer with Title IX for certain supportive or interim measures.

CONFIDENTIALITY REQUESTS

Complainant's Request for Confidentiality or to Not Proceed With Formal Resolution. When individuals report sexual misconduct but do not consent to the disclosure of their names and/or do not disclose information about the alleged perpetrators, the College's ability to respond to the complaints may be limited. In most cases, the College can honor an individual's request that a formal resolution process not be conducted. The College's Title IX Coordinator, or designee, will evaluate a request for confidentiality or no action on a complaint in the context of the College's obligations to provide a safe and nondiscriminatory environment for all community members, and to remain true to the principle of fundamental fairness which requires that a Respondent be provided with notice of the allegations and an opportunity to respond before any action is taken against a Respondent. The Title IX Coordinator, or designee, will make this determination consistent with the following considerations: 1) the seriousness of the conduct; 2) the respective ages and roles of the Complainant and the Respondent; 3) whether there have been other complaints against the Respondent; and 4) the right of the Respondent to receive notice and relevant information before disciplinary action is sought.

PRESUMPTION OF NOT RESPONSIBLE

The College recognizes, and will advise the Parties, that there is a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the investigation and resolution process.

IV. ON CAMPUS REPORTING OPTIONS AND AVAILABLE RESOURCES

Electronic, Confidential, and Anonymous Reporting

There are various reporting options available at the College for someone to disclose or report a concern. Reports are received electronically, anonymously, and confidentially and may be received in person, via online reporting forms, and hotlines. See reporting forms below.

The resources available to the College community include both on and off-campus resources. The College encourages those who have experienced sex discrimination or sexual misconduct to talk to one or more of the below individuals or agencies.

A. Confidential Advisor and Confidential Resources

1. General Confidential Counselors in Health and Wellness (H &W) provides counseling and support for students. If you need support or ongoing care, you may schedule an appointment with a counselor at any time by following H & W scheduling guidelines. All Health and Wellness counselors and confidential advisors discuss information in confidence, and generally only report to the College that an incident occurred without revealing any personally identifying information, as required by law and policy.
    - For example, an individual may opt to engage a counselor in Health and Wellness to cope with life stressors or general emotional support. Or an individual may have experienced an act sexual or domestic violence in nature prior to enrolling at the college and you would like to talk with someone to process it.

2. On-Campus Confidential Advisors[2] Confidential Advisors (CA) are designated counselors employed by Lake Forest College Health and Wellness Center who receive additional training for responding to incidents of sexual assault, dating violence, domestic violence and stalking. This role is different than the general counseling staff in Health and Wellness as explained below. Individuals wishing to obtain confidential assistance without making a report to the College involving one of the forementioned areas may do so by requesting to speak with one of the College's Confidential Advisors (CA).
    - For example, if since enrolling at the College, and an act of sexual misconduct or sexual violence occurs you may opt to engage a confidential advisor either immediately after an incident occurs or anytime after. Or you may be considering if you would like the institution to know about the incident, yet looking to receive information about the Title IX process, rights, or options etc.[3]

In addition to providing confidential counseling, Confidential Advisors also, according to the *Illinois Preventing Sexual Violence in Higher Education Act,* provide emergency and ongoing support to individuals who have experienced sexual misconduct, including:

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[2] *Confidential Advisors do not investigate incidents of Title IX Sexual Harassment or other Sexual Misconduct, therefore, disclosures to Confidential Advisors will not trigger the College's administrative processes or investigation into an incident.*

[3] *Confidential Advisors share the same information with a Complainant that the Title IX Office will share in response to a report or disclosure.*

- Providing information regarding the individual's reporting options, rights, and possible outcomes;
- Providing referrals to on-campus and community-based resources, such as sexual assault crisis centers, medical treatment facilities, counseling services, legal resources, medical forensic services, and mental health services;
- Providing information regarding orders of protection, no contact orders, or similar orders issued by the College or a criminal or civil court;
- Explaining the individual's right to have privileged, confidential communications with the Confidential Advisor;
- Assisting in contacting campus officials, and/or local law enforcement upon request; and/or
- Assist with securing supportive measures and accommodations upon request.
- *Engaging with a Confidential Advisor is not the same as engaging for a counseling appointment*.

Confidential Advisors' Contact Information:
After hours number: 847-735-5300

Mary Grigar, PhD
Assistant Dean of Students and Director of Health and
Wellness Buchanan Hall, Room 137
Main office number: 847-735-5242
mgrigar@lakeforest.edu

Edward Neumann, PsyD
Assistant Director of Counseling Services, Community Wellness Coordinator
Buchanan Hall, Room 137
Main office number: 847-735-5243
neumann@lakeforest.edu

Kasey Schultz-Saindon, Ph.D
Assistant Director of Counseling Services, Coordinator of Clinical Training
Buchanan Hall, Room 137
Main office number: 847-735-5243
schultzsaindon@lakeforest.edu

- **On-Campus Medical Services:** Lake Forest College Health Services, Buchanan Hall; 847-735-5050 (students only)

3. **Off-Campus Confidential Resources.** The following off-campus agencies also employ individuals available to discuss incidents of misconduct in confidence. Disclosures to these entities ***will not*** trigger the College's obligation to respond to an incident. Please note that limitations of confidentiality may exist for individuals under the age of 18. Unlike the campus Confidential Advisors, most off-campus confidential resources are not as familiar with our campus processes, but they would have knowledge about legal, community, and other resources. They will only contact the College if you give them permission.

    - Employee EAP Perspectives**:** 800-456-6327, available 24/7 (for employees only).
    - The Zacharias Sexual Abuse Center: 847-872-7799.

- A Safe Place Domestic Violence Center: 800-600-7233 (SAFE).
- The Chicago Rape Crisis Hotline: 888-293-2080.
- National Sexual Assault Telephone Hotline: 800-656-HOPE (4673).
- State of Illinois Domestic Violence Hotline: 877-863-6338.
- Center on Halsted LGBTQ Violence Resource Line: 773-871-CARE (2273).

On and off-campus confidential resources will provide to the Title IX Coordinator aggregate numbers, with no personally identifying information of individuals they have supported.

B. Filing a Report with the College[4]

Reporting Forms: Landing Page-All Reporting Forms

- Electronic reports may be filed by completing the online sex discrimination or sexual misconduct reporting form. A response with available local and campus resources will be provided within 12-24 hours of receipt of the report, a direct response may take longer depending on when a report is submitted.
  Sexual Misconduct: www.lakeforest.edu/titleixreport

- Anonymous incidents may be shared via the Confidential and Independent Campus Conduct Hotline at 866-943-5787 or submitted online via our third-party anonymous site, *Lighthouse-Syntrio*:
  Anonymous Reporting Form.

Responsible Employees:

- Lake Forest College responsible employees[5] are obligated to share information with the college once they become aware of it. Sharing information with a responsible employee, while they cannot provide resolution as an Official With Authority (OWA), is another avenue for Complainants to disclose information to receive support and or an administrative response from the College.

C. Reporting to Campus Officials with Authority (OWA)

Reporting Prohibited Conduct to the College. The College strongly encourages individuals, including third parties, to report incidents of sex discrimination and sexual misconduct to the Title IX Coordinator or other College designated employees. With the exception of the Confidential Advisors listed above and other employees in the College's Health and Wellness Center, all other College employees, including student employees, who receive a report of sex discrimination and/or sexual misconduct in the context of their employment are required to promptly report all known details of the incident (including the identities of both the Complainant and alleged Respondent) to the Title IX Coordinator.

Alleged violations of this Policy may be reported to On-campus Officials:

- The Title IX Coordinator: 847-735-6009; www.lakeforest.edu/titleix
- Public Safety: 847-735-5555; www.u.edu.about/ourcampus/safety/
- Student Affairs: 847-735-5200; Dean of Students Office
- Human Resources: 847-735-5036; Human Resources Office

[4] *Filing a report with the College does not automatically initiate an investigation.*

[5] *Designated Responsible Employees (RE) are employees of the college (e.g., Faculty, Staff, Coaches, Faculty Advisor etc. obligated to share information known that is related to this Policy, and where applicable, other related Policies).*

The College will review, respond to, and or investigate anonymous reports made electronically, by phone, or otherwise to the extent possible based on the information provided. The College's ability to take disciplinary action against an accused Respondent may be limited in the case of anonymous or confidential reports.

If you are in immediate danger, **call 911 for the Lake Forest Police Department**. The nonemergency number for the Lake Forest Police Department is 847-234-2601. The Lake Forest College Department of Public Safety can also connect you to the Lake Forest Police Department.

V. OFF-CAMPUS REPORTING AND ASSISTANCE

A. Reporting to Law Enforcement.

The College encourages Complainants to report to the police any allegation of sexual misconduct that could be a crime and will assist individuals wishing to do so. A police report must be made before a criminal prosecution can be considered by the local State's Attorney's Office. The chances of successful prosecution are greater if the report to the police is timely.

If an incident occurred on campus, the Lake Forest Police Department has jurisdiction and may be contacted at:
Lake Forest Police Department
255 W. Deerpath Rd., Lake Forest, IL 60045; Lobby Hrs. Monday-Saturday, 8am-6pm
847-234-2601 (non-emergency)
911 (emergency)

For incidents in Chicago, contact:
Chicago Police Department
1718 South State Street, Chicago, IL 60616
Non-Emergency: 312-745-4290; 312-746-6000 (outside city limits) 311 (within city limits)
911 (emergency)

1. Survivors/Complainants have extended access of 180 days to seek services, extending access to those unable to receive care in the first few months after an incident.

2. **Emergency and Protective Orders**. Complainants have the right to request that law enforcement implement emergency protective or restraining orders or to pursue such orders through the civil court process, and the College can assist Complainants who wish to do so. Complainants who receive protective or restraining orders through a criminal or civil process should notify the Title IX Coordinator so that the College can manage compliance with the order on campus.

3. **Criminal vs. Campus Process**. Whether or not criminal charges are filed, the College may investigate and resolve complaints of sexual misconduct under this Policy where appropriate. Because the standards for finding a violation of criminal law are different from the standards for finding a violation of this Policy, criminal investigations or reports are not determinative of whether sexual misconduct, for purposes of this Policy, has occurred. In other words, conduct may constitute sexual misconduct under this Policy even if law enforcement agencies lack sufficient evidence of a crime and therefore decline to investigate or prosecute.

The College's investigation of a complaint of sexual misconduct shall proceed simultaneously with any law enforcement investigation, except that the College may, in some circumstances, defer the fact-finding portion of its investigation for a limited time while law enforcement gathers evidence. During this time period, the College will take any additional measures necessary to protect the Complainant and the College community.

B. Hospitals and Medical Assistance.

Whether or not an individual who has experienced sexual misconduct decides to report an incident to the College or law enforcement, the individual is encouraged to seek immediate medical attention from one of the resources listed below in order to treat physical injuries, test for and treat sexually transmitted infections and pregnancy, and access emergency contraception (if requested).

- Under Illinois law, certain medical personnel are required to alert police when the individual requesting treatment appears to have sustained injury as a victim of a criminal offense, including sexual assault. However, the individual may choose whether to speak to the police and is not required to do so;
- Survivors have extended access of 180 days to seek services, extending access to those unable to receive care in the first few months after an incident; and
- To provide confidentiality for those seeking treatment after abuse from partners or family members, Complainants may decline to bill their health insurance provider for the cost of emergency care if they themselves are not the primary policy holder.

1. Local medical assistance can be obtained at:
   - **Advocate Condell Medical Center Emergency Room**,
     801 S. Milwaukee Ave., Libertyville, IL; 847-990-5300
     (Sexual Assault Nurse Examiners are available 24/7 to assist victims and collect physical evidence)
   - **Highland Park Hospital Emergency Room**,
     777 Park Avenue West, Highland Park, IL, 60035; 847-432-8000
     (Sexual Assault Nurse Examiners are available to assist victims and collect physical evidence)
   - **Lake Forest Hospital Emergency Room**,
     660 N. Westmoreland Rd., Lake Forest, IL 60045; 847-535-6150

2. Evidence Preservation

Even if an individual has not been physically hurt, a timely medical examination is recommended so that forensic evidence can be collected and preserved. An individual may choose to allow the collection of evidence by medical personnel even if they choose not to make a report to the police. In order to best preserve forensic evidence, it is suggested that an individual who has been sexually assaulted and wishes to preserve evidence should, if possible, not shower, bathe, douche, smoke, brush teeth, use the bathroom, eat, drink, or change clothes or bedding before seeking medical attention, and that medical attention be sought as soon as possible. Unwashed clothes worn during the incident can be transported to the hospital or medical facility in a paper bag. If an individual suspects that they may have been drugged, they should inform the hospital or law enforcement as soon as possible so that they can attempt to collect evidence.

- Under Illinois law, the cost of emergency medical or forensic examinations for sexual assault survivors not covered by private insurance or Illinois Public Aid will be

covered by the Illinois Department of Healthcare and Family Services. The Title IX Coordinator can provide more information regarding the procedure for obtaining this financial assistance.

- Individuals who have experienced sexual misconduct are also encouraged to preserve evidence by saving text messages, instant messages, social networking pages, or other communications and by keeping pictures, logs, or other copies of documents.

VI. DISABILITY ACCOMMODATIONS

The College is committed to providing individuals with disabilities reasonable accommodations needed in order to have full and equal access to the procedures under this Policy. Requests for accommodations or support should be directed to the Title IX Coordinator, who will review the request with the Disability Services (for students) and Human Resources (for staff and faculty), to determine whether and what accommodations are appropriate.

VII. PRIVACY

The privacy of all parties and participating witnesses involved in reports of misconduct under this Policy will be respected to the extent permitted under relevant law. Information related to a report will be shared only with those College employees who need to know to assist in the investigation and/or resolution of the matter pursuant to this Policy and the accompanying Complaint procedures.

The College will, to the extent permitted by law, keep confidential 1) the identity of any individual who has made a report or filed a complaint under this Policy, 2) any Complainant, 3) any individual who has been reported to be the perpetrator (Respondent) of a Policy violation, 4) and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, to carry out the purposes of any arising investigation, hearing, or judicial proceeding. The College will also keep confidential any supportive measures provided to a Complainant or Respondent except as necessary to implement the supportive measure(s).

VIII. RETALIATION

Retaliation against individuals engaging in protected activity under this Policy is prohibited. Retaliation is an adverse action taken by the College, a Respondent, a Complainant, another student, and/or friends, family and acquaintances against an individual for the purpose of interfering with any right or privilege secured by Title IX or other applicable state or federal law or this Policy or as reprisal for filing a complaint or report, supporting a Complainant, and/or otherwise participating or refusing to participate in a proceeding pursuant to this Policy.

Protected activity includes, but is not limited to, making a good-faith complaint of sex discrimination or sexual misconduct, cooperating in good faith in the investigation of a complaint of sexual discrimination or misconduct, and/or testifying as a witness to any report of sexual discrimination or misconduct. An action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this Policy or participating in the reporting, investigation, or resolution processes under this Policy or related Policies.

Retaliation includes intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve discrimination or harassment, but arise out of the same facts or circumstances as a report or complaint of prohibited conduct, or a report or complaint of prohibited conduct, for the purpose of interfering with any right or privilege secured by this Policy.

Retaliation does not include the exercise of rights protected under the First Amendment, or charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a proceeding under this Policy, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any Party made a materially false statement in bad faith.

Retaliation can be committed by or against any individual or group of individuals, including a Respondent or Complainant. Retaliation is still prohibited even when there is a finding of no responsibility for the allegation.

Alleged retaliation should be reported promptly to the Title IX Coordinator, the Dean of Students, the Dean of Faculty, or the Director of Human Resources. Retaliation will result in investigation and discipline independent of any finding on the underlying allegations of sex discrimination/sexual misconduct.

IX. OTHER RELATED POLICIES

Child Abuse and Neglect

Mandatory Reporting of Child Abuse, Child Sexual Abuse, and Child Neglect

All College employees[6] are mandated reporters under the Illinois Abused and Neglected Children's Reporting Act. Mandated reporters are required to immediately report to the Illinois Department of Children and Family Services (DCFS) suspected child abuse and/or neglect when they have "reasonable cause to believe" that a child known to them in their professional or official capacity may be an abused or neglected child. This is done by calling the DCFS Hotline at 1-800-252-2873 or 1-800-25ABUSE.

"Abused child" means a child (under 18 unless legally emancipated) whose parent or immediate family member, any person responsible for the child's welfare, any individual residing in the same home as the child, or a paramour of the child's parent:

- Inflicts, causes to be inflicted, or allows to be inflicted upon such child physical injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health or loss or impairment of any bodily function;
- Creates a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health or loss or impairment of any bodily function;

[6] *College volunteers having regular contact with minors are also mandated reporters.*

- Commits or allows to be committed any sex offense, act of torture, excessive corporal punishment, female genital mutilation, involuntary servitude, involuntary sexual servitude, or trafficking in persons against such child; or
- Causes to be sold, transferred, distributed or given to such child under 18 years of age, a controlled substance, except for controlled substances that are prescribed and dispensed to such child in a manner that substantially complies with the prescription.

There is ***no*** option for confidentiality in the case of suspected child abuse, child sexual abuse and/or child neglect. In other words, all mandated reporters with reasonable cause to believe that a child known to them in their professional capacities may be abused, sexually abused or neglected are required to contact DCFS. Mandated reporters must also promptly notify the Title IX Coordinator that a DCFS report has been made.

Minors on Campus Policy

The College has a policy regulating engagement with minors on campus. If you will be leading or sponsoring a program involving a minor child, you must review and comply with the requirements of the Lake Forest College Minors on Campus checklist, training, and other requirements. You may access the Minors on Campus Policy here and webpages here.

Consensual Relationship

Consensual Romantic or Sexual Relationship Policy which governs how employees engage with consensual relationships and any power dynamics to consider is available here.

Discrimination and Harassment Policy

Policy to address other acts of sex discrimination, harassment, sexual misconduct, or may not meet the Title IX sexual harassment definition, but may require a campus response based on the alleged conduct.

X. EDUCATIONAL PROGRAMMING AND TRAINING

The College provides educational programming and training relating to this Policy and the accompanying Procedures including:

Training for Officials Responsible for Investigation or Adjudication of Complaints. The College will ensure that all officials responsible for the investigation or adjudication of sex discrimination and sexual misconduct receive annual training as required by applicable state and federal laws. These individuals will include, but not be limited to, the College's Title IX Coordinator, Deputy Title IX Coordinator, investigators, hearing officers, appeal decision-makers, confidential advisors, and Informal Resolution facilitators. The training materials will not rely on sex stereotypes and will promote impartial investigations and adjudications of complaints of sexual harassment. The training materials will be posted on the College's website. The functions of the listed individuals may be performed by a college employee or other individual engaged by the College to provide a service.

Primary Prevention and Awareness Programs. The College provides annual primary prevention and awareness programs for all students and training programs for all employees that include information on the definitions of sexual misconduct offenses, college policy, consent, bystander intervention, warning signs of abusive behavior, risk reduction, on- campus and off campus-confidential and other resources, procedures and options for reporting sexual

misconduct, the College sexual misconduct complaint resolution process, available sanctions and supportive measures, and confidentiality.

Ongoing Prevention and Awareness Campaigns. The College also provides ongoing prevention and awareness campaigns for students and employees that provide additional information regarding the subjects covered in the primary prevention and awareness programs.

XI. INSTITUTIONAL CRIME REPORTING

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act") requires institutions of higher education to compile and publish statistics on certain criminal offenses including sexual assault, domestic and dating violence, and stalking that occur on or adjacent to school properties. The Clery Act requires that certain crimes reported to certain campus employees, called Campus Security Authorities, be included in those annual statistics. All crimes reported and documented under the Clery Act will be recorded in the aggregate, absent personally identifying information.

The College will also issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to the community. A Complainant will not be identified in a timely warning. For more details about institutional crime reporting, including information about which employees are designated Campus Security Authorities required to report crimes under the Clery Act, please see the College's Annual Security & Fire Safety Report.

ANNUAL REPORTS

The College prepares an annual report on the previous calendar year's sexual violence complaints, responsive actions, and prevention education in accordance with the *Illinois Preventing Sexual Violence in Higher Education Act* and *the Illinois Department of Human Rights.* The report does not mention the name of any individuals or identify details of any complaint. The report is posted on the College's website at https://www.lakeforest.edu/title-ix/about-title-ix/campus-culture-and-climate. Other state and federal reports are submitted accordingly. The Title IX Coordinator may create additional periodic reports for submission to the College President, who shall publicize them to the College community, as appropriate.

XII. POLICY APPROVAL AND POSTINGS

This Policy will be reviewed regularly for compliance with federal, state, and local laws and best practices. This Policy is approved annually by the President of Lake Forest College. The Policy, along with its related materials, is available on the College's website at: https://www.lakeforest.edu/title-ix/policies. We reserve the right to revise and adjust the Policy to align with state or local statutes, as necessary[7].

Policy Enacted: August 28, 2015
Amended: August 14, 2020; Updates: January 2023 and September 5, 2023; *College website may be referred to for the most recent version of this Policy and Procedure*

[7] *Beyond updates to align with governmental regulations, provide clarity, and to improve readability and aesthetic, no substantive policy or procedural content revisions were made to this Policy.*

Interim Title IX Sexual Harassment Complaint Resolution Procedures

COMPLAINT RESOLUTION PROCESS

The College provides a prompt and impartial resolution of alleged violations of the College's Sex Discrimination and Sexual Misconduct Policy ("The Title IX Policy"). Under this policy, Lake Forest College does not discriminate the basis of sex, sexual orientation, gender, and/or gender identity in any college program or activity, consistent with Title IX of the Educational Amendments of 1972, Title VII of the Civil Rights Act of 1964, and other applicable state and federal laws.

When the college has actual knowledge of an allegation or complaint of *Title IX Sexual Harassment*, as defined in the Policy, in an education program or activity of the recipient against a person in the United States, the college will respond promptly in a manner that is not deliberately indifferent. In this process, the College will treat Complainants and Respondents equitably by providing remedies to a Complainant where a determination of responsibility has been made against the Respondent, and by following the investigation and resolution process described in these procedures before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a Respondent.

COMPLAINT RESOLUTION TIME FRAME

The college will make a good faith effort to resolve all *Title IX Sexual Harassment* reports and appeals (where applicable) as expeditiously as possible. The College strives to complete all investigations, hearings, and appeals under this process within ninety (90) - one hundred twenty (120) calendar days. The Title IX coordinator or designee will regularly update the parties on the status of the proceedings throughout their duration. If an Informal Resolution process is used, the college strives to resolve the matter through that process within similar timeframes. These processes may be temporarily delayed or extended for a limited timeframe for good cause. Good cause may include considerations such as the absence of a party, a Party's Advisor or witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities. The Title IX coordinator will provide written notice of any delays and/or extensions to the parties and describe the reason(s) for the delays and/or extension.

KEY DEFINITIONS FOR COMPLAINT RESOLUTION

Actual knowledge means notice of *Title IX Sexual Harassment* or allegations of Title IX sexual harassment to the College's Title IX coordinator or any college official who has authority to institute corrective measures on behalf of college. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the college with actual knowledge is the Respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the college.

Advisor. An individual chosen by either Party to accompany the party to meetings, interviews regarding the investigation or hearing. An Advisor has different roles depending on the applicable Sex Discrimination policy or the procedural steps during a Title IX process. For more

information on advisor, including decorum, see *Complaint Resolution, Formal Resolution, Section-IV.*

Authority to take corrective measures. A college official designated by the college as having the authority to take corrective measures on behalf of the college in response to reports and complaints under this Policy. These officials include Title IX coordinator, the Deputy Title IX coordinator, or any other college Designee.

Complainant. Complainant is the Party who is alleged to be the harmed party or victim of *Title IX Sexual Harassment* conduct that could constitute sexual harassment.

Complaint Resolution Flowchart. The Full and Simplified flowcharts are aimed to supplement and further explain the campus resolution process for *Title IX Sexual Harassment* violations. Any conflict or differences outlined in the flowchart; the Policy is the governing document.

Education program or activity. means any location, event, or circumstance over which the college exercises substantial control over both the Respondent and the context in which the alleged violation of this policy occurs, and includes any building owned or controlled by a student organization that is officially recognized by the college.

Formal Complaint. A Formal Complaint is a written document filed by a Complainant or signed by the Title IX coordinator or designee alleging *Title IX Sexual Harassment* against a Respondent and requesting that the college initiate the formal process for the allegation of sexual harassment. Both formal and informal resolution processes require a signed complaint to initiate the process. At the time of filing a complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the college. As used in this paragraph, the phrase "document filed by a Complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by college) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint. Where the Title IX coordinator signs a complaint, the Title IX coordinator is not a complainant or otherwise a party under this Policy.

Remedies. Remedies are measures taken by the college that are intended and designed to restore access or preserves equal access to the college's programs and activities. Such remedies may include supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent when there has been a finding of responsibility.

Reporting Party. Under this Policy, an individual who reports *Title IX Sexual Harassment* occurring between other persons are considered the reporting party (peer, community member, responsible employee, etc.).

Receiving Reports. Any person may report a violation or alleged violation of this policy in person, by mail, by telephone, or by electronic mail or online portal, using the contact information listed for the Title IX coordinator, or by any other means that results in the Title IX coordinator receiving the person's verbal or written report. Any person may report a violation or alleged violation of this policy whether or not the person reporting is the person alleged to be the victim of conduct that could constitute prohibited conduct. A report may also be made to any college official designated as having the authority to take corrective action on behalf of the college. A report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title

IX coordinator. Officials with the authority (OWA) to take corrective measures, including as defined above (*see Policy, OWA, Section-IV. C*), college supervisors or managers, who receive a report or complaint must promptly refer the report or complaint to the Title IX office.

Respondent. Respondent is the Party accused of conduct that may constitute a violate *Title IX Sexual Harassment* or sexual misconduct.

Standard of Proof. Standard used to determine whether sufficient information exists to establish, by preponderance of the evidence, violation of the College's *Sex Discrimination and Sexual Misconduct Policy and Complaint Resolution Procedures. A preponderance of evidence is established when information provided during investigation and or resolution supports a determination that "it is more likely than not" that violation of the Policy occurred.*

Title IX Sexual Harassment as defined by the 2020 Title IX regulations of the Department of Education to address incidents under this Policy involving sexual harassment, sexual assault, dating violence, domestic violence or stalking. Based on the type of incident, other acts of sexual misconduct may be addressed according to campus Policies, as appropriate.

I. PROCESS- Complainant's Report

INITIAL REVIEW AND ASSESSMENT

Upon receipt of a report of *Title IX Sexual Harassment*, the Title IX coordinator will assess the nature of the allegations, the safety of the involved individuals and the college community, the Complainant's expressed preference for resolution and/or request for confidentiality, and the necessity for any protective measures to maintain the safety of the Complainant or the college community. During the initial review, the Title IX coordinator will provide the Complainant with a written statement of rights and options under the college's policy, information about these complaint procedures, and information relating to support resources. The College's Title IX coordinator, or Designee, will evaluate a request for confidentiality and/or no action on a complaint in accordance with the factors described above (*see Policy-Confidentiality Requests, Section-III*).

For information on how to file a report or access the reporting form(s), please see the Policy-Reporting to the College, Section-IV-B above.

EMERGENCY REMOVAL and/or ADMINSTRATIVE LEAVE

On an emergency basis, the College may place a student on interim suspension, impose administrative leave for an employee (including student employees), or otherwise remove a student or employee Respondent from or deny access to campus facilities, and/or all or part of the College's programs or activities during the pendency of the College's Procedures under this Policy. Except for administrative leave for an employee, prior to such removal the College must undertake an individualized safety and risk analysis to determine whether there is an immediate threat to the physical health or safety of any student, employee, or other individual arising from the allegations of conduct prohibited by this Policy that would justify a Respondent's removal.[8]

The College will provide the Respondent with written notice of an opportunity to appeal the removal decision immediately following the removal. The written appeal request should state the

[8] *This provision may not be construed to modify any rights under the Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.*

reasons why the Respondent believes the removal should be overturned. The appeal request must be received by the Title IX Coordinator within five (5) calendar days of the notification of the issuance of a temporary suspension. The Title IX Coordinator will ensure the relevant College official reviews the appeal to determine whether the decision was supported. The appeal determination shall be sent to the Respondent within five (5) calendar days of receipt of the initial appeal request, and the appeal determination is final. During a temporary suspension, a student Respondent may be denied access to the campus, facilities, or events. As determined by Title IX Coordinator, this restriction includes classes, access to campus housing or dining facilities, and/or all other activities or privileges for which the student might otherwise be eligible. Similarly, alternative coursework option may be pursued to ensure as minimal impact as possible on the Respondent and Complainant. A temporary suspension of a student Respondent may be enforced until the final disposition of the allegation has been made by the appropriate College official or hearing entity.

SUPPORTIVE AND INTERIM MEASURES

The Title IX coordinator or designee will offer supportive measures, as described in the policy, as appropriate, without fee or charge, to the Complainant or Respondent upon notice of possible *Title IX Sexual Harassment*. The Title IX coordinator will promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a complaint and explain to the Complainant the process for filing a complaint.

In cases where the Respondent is a student or student organization and considered a threat to persons or property, the dean of students may impose interim measures such as suspension and/or loss/cancellation of other privileges prior to or during the resolution of Title IX sexual harassment allegations. In cases where the alleged Respondent is an employee and considered a threat to persons or property, the director of human resources and/or the dean of the faculty may impose interim measures such as suspension (with or without pay) during the resolution of *Title IX Sexual Harassment* allegations. The college will keep supportive measures confidential and will share information only with those needed in order to implement the measures. Violation(s) of a directive and/or supportive measure may result in disciplinary action separate from any sanctions issued for a determination of *Title IX Sexual Harassment*.

Supportive measures are available regardless of whether formal resolution is sought by the Complainant and may be provided on an interim basis pending resolution.

Where the College determines that the process will move forward, the College will proceed as set forth below.

II. Formal Complaint

As Complainant evaluates what they would like to do (move forward, do nothing, supportive measures, rights and options only etc.), there may be a gap of time from report to formal complaint submission. Complainant completes signed, written document and submits to the Title IX office. (Complainants may file formally without having an initial meeting but are encouraged to do so). At the time of filing a complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the college. The Formal Complaint is what triggers the *Title IX Sexual Harassment* procedures (Formal Resolution or Informal Resolution) as outlined in *Complaint Resolution-Procedures, Sections-III & IV*. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

DISMISSAL OF CLAIM

1. The College must dismiss a formal complaint or any allegations therein if, at any time, it is determined that:
   - The conduct alleged in the formal complaint would not constitute Title IX Sexual Harassment as defined in the Policy even if proven; and/or
   - The conduct did not occur in a College educational program or activity; and/or
   - The conduct did not occur against a person in the United States; and/or
   - At the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in the education program or activity of the College.

2. The College may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:
   - A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to *withdraw the formal complaint or any allegations therein; or
   - The Respondent is no longer enrolled in or employed by the College; or
   - Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, the College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the Parties. This dismissal decision is appealable by any Party under the procedures for *Complaint Resolution-Formal Resolution Procedural Steps, Appeals Section IV-G*.

III. INFORMAL RESOLUTION

Complainants have the option of formal or informal dispute resolution procedures. Under both options, the investigator(s) will meet with the Complainant and the Respondent separately to discuss the complaint and the process. The Complainant must file a written formal complaint to initiate the Informal Resolution Process.

- At any time prior to reaching a determination regarding responsibility and after the filing of a complaint, the College may offer and facilitate an Informal Resolution process, such as mediation, that does not involve a full investigation and adjudication.
- Informal Resolution is a voluntary, structured interaction between or among the Parties that is designed to reach an effective resolution to a complaint made under this Policy.
- These informal procedures may include, but are not limited to, mediation, counseling, and/or any other means of resolving a complaint other than a formal resolution process.
- The Informal Resolution process attempts to resolve the issue with the Complainant and Respondent by mutual agreement.
- The College recognizes that Informal Resolution options may, if implemented in concert with institutional values and legal obligations, be an appropriate means of addressing some forms of possible Prohibited Conduct reported under this Policy.
- If an Informal Resolution Process is used, the College strives to resolve the matter through that process within 90-120* calendar days.

Informal Resolution is not appropriate for all forms of possible Prohibited Conduct under the Policy and the Title IX Coordinator retains the discretion to determine which cases are appropriate for Informal Resolution. The Title IX Coordinator will determine if Informal Resolution is appropriate based upon: 1) the willingness of the parties to participate in Informal Resolution; 2) the nature of the conduct at issue; and 3) the susceptibility of the conduct to

Informal Resolution. Informal Resolution is not an available option for complaints of Title IX Sexual Harassment made by an employee against a student or students against an employee.

A. Voluntary Process
Participation in the Informal Resolution process is voluntary, and the College will not require the Parties to participate in an Informal Resolution process to resolve allegations of Prohibited Conduct under this Policy. Both a Complainant and a Respondent can request to end this type of resolution and pursue an investigation at any time. The College does not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of complaints of *Title IX Sexual Harassment* under this Policy.

B. The College must obtain the Parties' voluntary, written consent to the Informal Resolution process. The College will provide the Parties with written notice disclosing:
    1. the allegations;
    2. the requirements of the Informal Resolution process, including the circumstances under which it precludes the Parties from resuming an investigation arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any Party has the right to withdraw from the Informal Resolution process and resume the formal resolution process; and
    3. any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared.

C. Individuals may be accompanied by an Advisor at any meetings related to the Informal Resolution process. Information shared or obtained during Informal Resolution will be treated as confidential to the extent permitted by law and will not result in subsequent disciplinary actions by the College, unless additional action is deemed necessary to fulfill the College's legal obligations.

D. Informal Resolution Outcome
    1. Written notification will promptly be sent by the Title IX Coordinator to the Complainant and the Respondent of the conclusion of the Informal Resolution process. The notification will describe the terms of the approved resolution, if any. *Resolution time frame above is usually shorter than time frame listed. The timeframe allows for consideration of parties' rights to engage the full process, including parties potentially ending Informal Resolution should this process fail and to initiate the Formal Process.

The Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the resolution may result in appropriate responsive actions.

IV. FORMAL RESOLUTION

When Informal Resolution is not requested or inappropriate, or when a report of *Title IX Sexual Harassment* cannot be informally resolved, a formal resolution process will be initiated. Formal resolutions will be prompt, adequate, thorough, reliable, impartial and equitable, incorporating applicable investigation techniques, including, but not limited to, interviewing relevant Parties and witnesses, and obtaining available evidence.

General Principles:

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties provided that the College cannot access, consider, disclose, or otherwise use a Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party, unless the College obtains that Party's voluntary, written consent to do so for a complaint resolution process under this section (if a Party is not an "eligible student," as defined in 34 CFR 99.3, then the College must obtain the voluntary, written consent of a "parent," as defined in 34 CFR 99.3);

1. In all investigations and determinations of responsibility, the College will conduct an objective evaluation of all relevant evidence - including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.
2. The College will not restrict the ability of either Party to discuss the allegations under investigation or to gather and present relevant evidence*;
3. The College will provide the Parties with the same opportunities to have others present during any complaint resolution proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the Advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of Advisor for either the Complainant or Respondent in any meeting or complaint resolution proceeding; however, the recipient may establish restrictions regarding the extent to which the Advisor may participate in the proceedings, as long as the restrictions apply equally to both Parties (*see Complaint Resolution-Advisor Section below*).
4. The College will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
5. The College will provide, to a Party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the Party to prepare to participate.

*Dissemination, copying, printing of materials as part of grievance process is prohibited.

CONSOLIDATION OF CLAIMS

The College may consolidate for investigation and resolution multiple complaints alleging *Title IX Sexual Harassment* against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of *Title IX Sexual Harassment* arise out of the same facts or circumstances.

CONCURRENT CRIMINAL INVESTIGATION

Some instances of *Title IX Sexual Harassment* may also constitute criminal conduct. In such instances, the Complainant is also encouraged to file a report with the appropriate law enforcement authorities and, if requested, the College will assist the Complainant in doing so (*see Policy, Reporting to Off Campus Officials, Section-V.-A-3).* The pendency of a criminal investigation, however, does not relieve the College of its responsibilities under Title IX. Therefore, to the extent doing so does not interfere with any criminal investigation, the College will not delay, and will proceed with its own investigation and resolution of the complaint as provided in these Procedures.

ADMISSION OF WRONGDOING

If at any time during the formal process, a Respondent wishes to admit responsibility for a Policy violation, the Title IX Coordinator may conclude the investigation and refer the matter to the appropriate sanctioning official, as identified below.

ADVISOR

Decorum

The Advisor may be a friend, professor, mentor, family member, attorney, or any other person a Party chooses, except that an individual who will be serving as a witness in the matter may not also serve as an advisor in the same matter without express prior permission from the Title IX Coordinator.

Advisors are expected to maintain the privacy of any information shared during the *Title IX Sexual Harassment* complaint investigation and resolution process. Such information may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may restrict the role of any Advisor who fails to abide by these privacy expectations.

An advisor who disrupts or otherwise fails to observe these limits will be asked to leave the meeting/interview, and the meeting/interview may continue without the advisor present. In cases of disruption in the hearing, the Hearing Chair or Title IX coordinator will manage. Subsequently, the Title IX Coordinator will determine whether the Advisor may be reinstated or replaced.

1. *Advisor of Choice*: The Complainant and Respondent are both permitted to bring an advisor of their choice, at their expense (except for cross-examination at the hearing as outlined below in Hearing Formal Resolution, Section D), to any meeting or interview in connection with a report of *Title IX Sexual Harassment* or other sexual misconduct or sex discrimination. Both Parties will be provided with timely written notification of meetings or interviews at which they may/must be present. The College reserves the right to proceed with a pre-arranged meeting or interview regardless of an Advisor's availability.
2. *Hearing Advisor*. The College cannot guarantee the equal advisory rights or representation. Meaning, if one Party selects an attorney as an advisor, but the other Party does not, or cannot afford an attorney, the College is not obligated to provide an attorney to that Party. In situations listed below where the College provides a Hearing Advisor for hearing, the College cannot guarantee the equality of an Advisor's representation for the party (*see Complaint Resolution-Formal, Pre-hearing procedures, Section-IV.-D.2c.).*

**The advisors in this section are distinctly different from confidential advisors in Policy-Section, IV-A. An advisor for the Harassment and Discrimination procedures also have a few differences.*

FORMAL RESOLUTION-PROCEDURAL STEPS:

A. Notice to the Parties:

The Title IX Coordinator will notify the Complainant and Respondent, in writing and simultaneously, of its decision to proceed to investigation of any alleged violation of this Policy. Where a Complainant chooses to not participate in an investigation that is moving forward regardless, the Title IX Coordinator will prepare a writing of the specific allegations as well as the scope of the investigation prior to the start of the investigation. The written

notification to the Complainant and to the Respondent will include the following, where known at that time:

- A description of this Policy and the Procedures, including the Informal Resolution process.
- A description of the allegations potentially constituting a violation of this Policy, including sufficient details known at the time. Sufficient details include the identities of the Parties involved in the incident, if known, the conduct allegedly constituting a violation of this Policy, and the date and location of the alleged incident, if known.
- Notice that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Procedures in this Policy.
- Notice to the Parties that they may have an Advisor of their choice, who may be, but is not required being an attorney.
- Notice to the Parties of the College's student or employee Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information under this Policy.
- Notice to the Parties that they may, as described below in this Policy, inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in a complaint.

The College will provide the Parties with sufficient time to review the written notice and prepare a response before any initial interview.
The notice will be amended and sent to both Parties if clarifying information is provided related to the alleged violation(s) of this policy, or if additional information is alleged to have occurred that constitutes additional violations of this policy.

B. Investigation

In the course of the investigation, the College will provide written notice of any additional allegations to the Parties if the College decides to investigate allegations about the Complainant or the Respondent that are not otherwise provided in the initial written notice.

1. **Investigator**. Investigations will be conducted by the Title IX Coordinator and/or other internal or external investigator(s) designated by the Title IX Coordinator.

2. Timely notice will be provided to Complainants and Respondents of all interviews or meetings at which they may/must be present, and both Parties will be provided with timely and equitable access to information.

3. **Interviews**. Investigations may include one or more interviews with the Complainant, Respondent, and fact witnesses.
    - Character witnesses, and expert witnesses without factual information about the allegations, are generally not relevant or permitted. Interviews may take place in person, by phone, or through electronic means.
    - The College will provide an equal opportunity for the Parties to present witnesses, including fact witnesses and expert witnesses with factual information about the allegations, and other inculpatory and exculpatory evidence.
    - Complainants and Respondents may provide written statements, identify fact witnesses, or submit other evidence to the Investigator.
    - The Parties may also provide the investigator with questions they request that the investigator ask the other Party or witnesses.

- It is in the investigator's discretion whether to interview all witnesses identified by the Parties, whether to interview additional witnesses not identified by the Parties, and whether to ask the parties and witnesses the questions requested by the parties.

4. **Evidence**. The College will provide both Parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a Party or other source, so that each Party can meaningfully respond to the evidence prior to conclusion of the investigation.
    - In addition, prior to completion of the Investigative Report, the College must send to each Party and the Party's Advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy.
    - The College must also make all such evidence subject to the Parties' inspection and review available at any hearing to give each Party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
    - Interviews are not electronically recorded by the College and may not be recorded by any participant. Investigations may also include the gathering and analysis of physical, documentary, and/or other relevant evidence.

    Sexual Predisposition and Prior Sexual Behavior
    In general, the Complainant's or potential Complainant's sexual predisposition and prior sexual behavior are generally not relevant and will not be considered as evidence. However, either Party's prior sexual behavior may be offered as evidence under the following limited circumstances:
        - To provide that someone other than the Respondent committed the conduct alleged by the Complainant; and
        - To prove consent by offering specific incidents of the Complainant's prior sexual behavior with respect to the Respondent. The mere fact of a current or previous dating or sexual relationship, by itself, is insufficient to constitute consent.

C. Investigative Report

DRAFT INVESTIGATION REPORT

After the investigation has been completed, the investigator will prepare a Draft Investigation Report that fairly summarizes relevant evidence gathered during the course of the investigation. The Draft Investigation Report will state specific factual findings and will not include any preliminary determination as to whether the evidence supports that Respondent has violated the Policy.

The Draft Investigation Report will be provided in electronic format or in a hard copy to the Parties and their Advisors, if any, for review. The Parties must respond to the Draft Investigation Report within ten (10) calendar days of receipt. The Parties may provide: 1) a written response to the information in the Draft Investigation Report, including the provision of additional clarifying information; 2) identification of new witnesses; and/or 3) submission of new evidence. The Investigator or the Title IX Coordinator will review any responses provided and consider whether

the responses establish a basis for additional investigation and/or for altering any information in the Draft Investigation Report.

FINAL INVESTIGATION REPORT

The final Investigative Report will be shared with the Title IX coordinator by the Investigator. The Title IX coordinator who will issue a Final Investigation Report that will include: the Draft Investigation Report; the Parties' responses to the Draft Investigation Report (if applicable); and the Investigator or Title IX Coordinator's determinations regarding the Parties' responses (if applicable); The Final Investigation Report will be simultaneously provided to both Parties at least (10) calendar days prior to the live hearing.

D. Hearing and Disciplinary Procedures

LIVE HEARING

- The College will provide a live hearing for both Parties. This may be conducted with all Parties physically present in the same geographic location or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

- The Title IX Coordinator will provide the Hearing Panel with the Final Investigation Report.

- The Hearing Panel is responsible for making the determination of responsibility for violations of the *Sex Discrimination and Sexual Misconduct* Policy and, if applicable, sanctions and/or other disciplinary actions.

- Members of the Hearing Panel cannot be the same person(s) as the Title IX Coordinator or the Investigator(s).

- Restricted Communications. The Hearing Panel shall not initiate, permit, or consider communications made to any member of the Hearing Panel outside the proceedings concerning a pending or impending hearing, except as follows: 1) Communications necessary to perform their responsibilities and duties; and/or 2) Communication for scheduling, administrative, or emergency purposes, which does not address substantive matters.

1. Pre-Hearing Procedures.
    a. The Title IX Coordinator will notify both Parties in writing of the date, time, and location of the hearing at least five (5) calendar days prior to the hearing. The Title IX Coordinator will be available to discuss with the Complainant and Respondent the hearing process.
    b. The Complainant and Respondent shall submit to the Chair of the Hearing Panel any information they wish to present at the hearing, the name of their Advisor, a list of questions, if desired, and a list of possible witnesses at least three (3) calendar days prior to the hearing. This may be done during a pre-hearing meeting.
    c. Prior to the hearing, a Respondent or Complainant may submit a request to the Hearing Panel to postpone the hearing for good cause no later than three (3)

calendar days prior to the scheduled hearing unless an unforeseen circumstance occurs. The written request must include the reason(s) for the request. The Hearing Panel may accept or deny the request after considering the nature of the request and the incident at issue.

2. Hearing Procedures.

All hearings will be held in accordance with the following procedures:

a. Both the Complainant and the Respondent may choose to request that the live hearing occur with the Parties located in separate rooms with technology enabling the participants simultaneously see and hear the Party or the witness answering questions each as one another.
b. The Title IX Coordinator and/or Investigator may be called as the first witness(es) and will testify as to the preliminary findings of the investigation, if necessary.
c. Both the Complainant and the Respondent are entitled to have one Advisor present, who may be an attorney. If a Party does not have an Advisor present at the live hearing, the College will provide without fee or charge to that Party, an Advisor of the College's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that Party.
d. The Chair of the Hearing Panel will provide each Party with an opportunity for Cross-Examination:
    i. Each Party's Advisor must be permitted to ask the other Party and any witnesses all relevant questions and follow up questions, including those challenging credibility.
    ii. Cross-examination must be conducted directly, orally, and in real time by the Party's Advisor and never by a Party personally, notwithstanding the discretion of the College to otherwise restrict the extent to which Advisors may participate in the proceedings.
    iii. Only relevant cross-examination and other questions may be asked of a Party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Chair of the Hearing Panel must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The questions may be reviewed during the pre-hearing meeting prior to being asked during the hearing.
    iv. A determination of responsibility will not be made based solely on the absence of a Party or witness from the hearing or refusal to answer cross-examination or other questions.
    v. Both the Complainant and the Respondent may provide an impact statement to the Hearing Panel Chair at the beginning of the hearing for consideration at the time of sanctioning, if applicable.
    vi. The College will create an audio or audiovisual recording of the hearing and make it available to the Parties, upon request, for inspection and review.

E. Sanctions and Disciplinary Procedures

If the Hearing Panel finds, based on a preponderance of the evidence, that the Respondent violated the Policy, the Hearing Panel will prepare the written determination. For any sanctions determinations, the Hearing Panel Chair will consult with the following College officials:

- The Dean of Students when the Respondent is a student.

- The Dean of the Faculty when the Respondent is a faculty member, serves as the sanctioning official.
- The Director of Human Resources when the Respondent is a staff member.

Disciplinary sanctions for violation of the College's Title IX Policy may include:

- Verbal or written warning;
- Mandatory training, programming, or educational assignments;
- Required psychological assessments;
- Revocation of offer of employment or admission;
- Community service;
- Disciplinary hold on academic and/or financial records;
- Probation;
- Removal from housing or other campus programs/activities/leadership positions;
- Restrictions regarding entering certain buildings or areas of campus;
- Loss of privileges;
- No-contact directive (with respect to individuals) or no-trespass order (with respect to campus locations);
- Performance improvement/management process (employees only);
- Transfer (of employment);
- Demotion or loss of pay increase;
- Loss of oversight, teaching, or supervisory responsibility;
- Suspension from school or employment (with or without pay, in the case of employees);
- Degree revocation;
- Termination of contract (contractors); and/or
- Termination, expulsion, or other separation from the College.

Other corrective action may also be taken, including those remedies set forth in the supportive measures section and any other appropriate targeted or broad-based remedial action.
Not all acts of *Title IX Sexual Harassment* are equally serious offenses. Therefore, the Hearing Panel may impose such sanctions as the Hearing Panel believes are fair and proportionate to the finding of violation. The Hearing Panel may consider the Respondent's record of past violations of the College's Policy or other policies, as well as the nature and severity of such past violation(s) and any other aggravating or mitigating factors in determining the appropriate sanctions. The Hearing Panel will also determine whether to implement the sanctions immediately or to stay the sanctions if a Party appeals the determination.

F. Written Determination

1. Both the Complainant and the Respondent shall be simultaneously provided with a written determination/ outcome notice, which will include:
   a. Identification of the allegations, names of the Parties, and name of the Investigator;

   b. Description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
   c. Applicable policies and procedures;

d. Information considered during the investigation and hearing (witnesses questioned, documents and other evidence);
e. Supportive measures requested/provided;

f. Responses from either the Complainant or Respondent to the Investigator's Draft Investigation Report;

g. Findings of fact to support the determination;

h. Conclusions, using the preponderance of evidence standard, regarding the application of the College's Policy to the facts; statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the College's programs and activities will be provided by the College to the Complainant.

i. The College's appeal procedures and the permissible bases for the Complainant and Respondent to appeal.

j. The determination regarding responsibility becomes final either on the date that the College provides the Parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Respondent Withdrawal While Complaints Are Pending

Should a Respondent decide to leave the College and not participate in the investigation and other portions of the Procedures set forth herein, the process will nonetheless proceed to a reasonable resolution in the Respondent's absence, if the Respondent is a student. The Respondent will not be permitted to return to the College until any sanctions or disciplinary actions issued have been satisfied. Sanctions of suspension or separation from the College will be permanently recorded on a student's transcript.

Failure to Complete Sanctions

Respondents who fail to complete issued sanctions or disciplinary actions may be disciplined or placed on academic hold and prohibited from registering for classes, acquiring transcripts, and accessing student accounts and/or grade reviews.

G. Appeals

The Respondent and/or the Complainant may appeal at various times throughout this process:

- after an emergency removal
- after the College's dismissal of a complaint or allegations therein; the dismissal process is outlined in the Complaint Resolution Dismissal section above.
- after the Hearing Panel's written determination of responsibility and imposition of sanctions; the appeal process is outlined below.

Either Party may appeal the outcome or sanctions by the Hearing Panel by submitting a written request for appeal to the Appeal Decision-maker (the Dean of Students when the Respondent is

a student; the Dean of the Faculty when the Respondent is a faculty member; the Director of Human Resources when the Respondent is a staff member). The appeal must be sent within five (5) calendar days of the date of receipt of the written notice of the outcome of the hearing. The appeal must be in writing and contain a detailed statement of the basis for the appeal including the specific facts, circumstances, and argument in support of the appeal.

The College will implement the appeal procedures equally for both Parties and will use the preponderance of the evidence standard for its determination.

GROUNDS FOR APPEAL

Appeals will be considered on the following four grounds:

1. The existence of procedural error(s) that affected the outcome;
2. Existence of new evidence which was not reasonably available at the time that the determination of responsibility was made and that could affect the outcome, including the findings and/or sanctions. Information that was known to the Complainant or Respondent during the investigation, but which he or she chose not to present, is not new;
3. Conflict of Interest or Bias: The Title IX Coordinator, Investigator(s), or a member of the Hearing Panel had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; and/or
4. The sanctions imposed are substantially disproportionate to the violation.

Mere disagreement with the decision is not grounds for appeal.

- ### Notice to Non-Appealing Party and Other Relevant Officials.

Upon receipt of an appeal, the Appeal Decision-maker will forward the appeal and its supporting documentation to the non-appealing Party. Additionally, the Appeal Decision-maker will forward a copy of the appeal and supporting documentation to the Title IX Coordinator and other appropriate College officials.

- ### Non-Appealing Party Response.

The non-appealing Party may submit a written response and supporting documentation to Appeal Decision-maker within five (5) calendar days from the date of the Party's receipt of the appeal. In cases where the appeal is based upon procedural error or the existence of additional evidence not available at the time of the investigation, the Title IX Coordinator may submit to the Appeal Decision-maker any relevant clarifying information within the same timeline. In cases where the appeal is based upon disproportionality of the sanctions, the Chair of the Hearing Panel may submit to the Appeal Decision-maker any clarifying information within the same timeline.

Burden of Proof. In any request for an appeal, the burden to demonstrate procedural error, new evidence, or disproportionate sanction lies with the Party requesting the appeal.

APPELATE DECISION-MAKER OPTIONS:

1. After considering all the relevant documentation, the Appeal Decision-maker may:
   a. Deny the appeal because the reason for appeal does not fall within the stated ground for appeal, (i.e., procedural error, new evidence, or disproportionate sanctions);
   b. Uphold the original finding and/or sanction;

c. Remand the case to the Hearing Panel for reconsideration of the findings in light of new evidence or procedural error;
d. Request appointment of a new Investigator to conduct a new investigation where significant procedural error occurred during the course of the original investigation; or
e. Refer the case back to the Hearing Panel for reconsideration of the sanction (with or without recommendations).

2. Final Decision.
The Appeal Decision-maker will notify the parties simultaneously in writing of the outcome of the appeal, including the result of the appeal and the rationale for the result. Appeal decisions are final.

All appellate time periods set forth in this section can be extended as necessary for good cause by the Appeal Decision-maker with notice to the Parties.

H. Records

The College will maintain records relating to allegations of Prohibited Conduct under this Policy for a period of seven years. Records will be retained in accordance with the Illinois Personnel Record Review Act and all other state and federal requirements. Complaints and information gathered in the course of an investigation will be kept private to the extent permitted by law. The records shall include:

a. Each investigation of *Title IX Sexual Harassment* under this Policy including any determination regarding responsibility and any audio or audiovisual recording of the hearing, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant;
b. Any appeal and the result therefrom;
c. Any Informal Resolution and the result therefrom; and
d. All materials used to train Title IX Coordinators, Investigators, Hearing Panel Members, others decision-makers, and any person who facilitates an Informal Resolution process.
e. Records of any actions, including any supportive measures, taken in response to a report or complaint of "*Title IX Sexual Harassment*," as defined in this Policy. The College will, in each instance, document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to its education program or activity. If College decides not to provide a Complainant with supportive measures, then the College will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the College in the future from providing additional explanations or detailing additional measures taken.

I. Non-Disclosure Agreements

The College will not require a Party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the disclosure of information related to the outcome of the proceeding.

Enacted: August 28, 2015
Last Amende7d: August 14, 2020; Updated January 2023; September 5, 2023