Sexual Misconduct Complaint Resolution Procedures

The College provides a prompt and impartial resolution to allegations of sexual misconduct independent from law enforcement and criminal court proceedings. The Title IX Coordinator will review all reports of alleged sexual misconduct received by the College and work with the necessary individuals to determine an appropriate resolution. Options include:

• Resolution of the allegations through an informal resolution process;
• Investigation and resolution of the allegations though the College’s formal resolution and appeals process; or
• Referral to the appropriate campus office for resolution or closure with no further action when it is determined that the allegations, even if true, do not constitute sexual misconduct under the College’s Sexual Discrimination and Misconduct Policy.

Each option is explained in detail herein:

1. Resolution Time Frame. The College aims to resolve all sexual misconduct reports and appeals (where applicable), within sixty (60) calendar days. This time period can be extended as necessary for good cause by the Title IX Coordinator, a sanctioning official and/or the Chair of the Sexual Misconduct Appellate Board with notice to the parties of the extension and an explanation of the reason for the extension. The Title IX Coordinator will regularly notify the parties of the status of the proceedings throughout their duration.

2. Relevant Definitions. For purposes of these complaint resolution procedures, a Complainant is the party alleging sexual misconduct or to whom sexual misconduct was directed. The Respondent is the party accused of sexual misconduct. An individual who reports sexual misconduct occurring between individuals other than him/herself is referred to as a third party reporter or witness.

3. Title IX Initial Review and Assessment. Upon receipt of a report of sexual misconduct, 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 interim measures to maintain the safety of the Complainant or the College community. If, during this assessment, it is determined that the alleged conduct, even if true, does not constitute sexual misconduct under the College’s Sexual Discrimination and Misconduct Policy, the matter may be referred to the appropriate campus office for resolution or closed with no further action taken.

Where there is reasonable cause to believe sexual misconduct may have occurred, the College will proceed, in consultation with the Complainant, as set forth below. In such cases, the Title IX Coordinator will provide the Complainant and Respondent with a written statement of their rights and options under the College’s Sexual Discrimination and Misconduct Policy and these complaint resolution procedures.

4. Interim Measures. Where there is reasonable cause to believe sexual misconduct may have occurred, the Title IX Coordinator or designee will provide prompt, appropriate and reasonably available interim
measures to support and protect the parties and prevent any further acts of misconduct, harassment or retaliation prior to the final resolution of the allegations. Interim measures may be imposed regardless of whether formal resolution is sought by the Complainant.

Interim measures may include, but are not limited to:

- Referral to counseling and health services;
- Referral to the Employee Assistance Program (employees only);
- Alteration of Respondent’s (and/or Complainant’s, if the Complainant desires) housing (students only);
- Modification of work arrangements and/or scheduling;
- Dining accommodations;
- Campus escorts and/or changes to campus transportation arrangements;
- “No Contact Orders” between the parties;
- Academic programming or scheduling adjustments; and/or
- Assistance in obtaining and/or enforcing a court-issued Stalking No Contact or other Restraining Orders.

In cases where the alleged 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 sexual misconduct 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 sexual misconduct allegations. Interim measures will be kept confidential to the extent that maintaining such confidentiality will not impair the ability of the College to provide the interim measures.

The College will provide written and verbal notification to Complainants and Respondents about existing counseling, health, mental health, victim advocacy, confidential advisors, legal assistance, visa and immigration assistance, student financial aid, and other relevant College and community resources.

Violation(s) of a directive and/or protective action issued as an interim measure may result in disciplinary action separate from any sanctions issued for a determination of sexual misconduct.

5. **Party Support Persons.** The Complainant and Respondent are both entitled to bring a support person of their choice, at their expense, to any meeting or interview in connection with the resolution of a report of sexual misconduct. The support person 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 serve as support person in the same matter without express prior permission from the Title IX Coordinator.

The College cannot guarantee the equality of support person representation. This means that if one party selects an attorney as a support person, but the other party does not, or cannot afford an attorney, the College is not obligated to provide one. However, the role of the support person is for emotional support only and therefore, non-participatory. In other words, a support person may not speak for or draft any statements on a party’s behalf. A support person 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 support person present. Subsequently, the Title IX Coordinator will determine whether the support person may be reinstated or replaced.
Both parties will be provided with timely written notification of meetings/interviews at which they may/must be present. Therefore, the College reserves the right to proceed with a pre-arranged meeting or interview regardless of a support person’s availability. Support persons are expected to maintain the privacy of any records shared during the sexual misconduct complaint resolution process. Such records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any support person who fails to abide by these privacy expectations.

6. Informal Resolution. Where appropriate, the College will work to informally resolve sexual misconduct allegations by taking immediate and corrective action to stop the misconduct, address its effects, and prevent recurrence without a formal investigation and determination of a College policy violation. Informal resolution may include the range of interim measures in Section 4 above, as well as targeted and/or broad-based training and educational programming for relevant individuals and groups and/or any other remedy that will achieve the goals of the College’s Sexual Discrimination and Misconduct Policy. In some circumstances, mediation or joint conflict resolution may be appropriate; however, mediation or face to face meetings will never be used to resolve allegations of non-consensual intercourse or contact or other sexual violence. Participation in informal resolution is voluntary and either party can request to end informal resolution and initiate the formal resolution process at any time.

7. Formal Resolution.

a. Investigation. When a report of sexual misconduct cannot be informally resolved, a formal resolution will be initiated. Formal resolution includes a prompt, thorough and impartial investigation into the allegations of sexual misconduct.

Investigations will be conducted by the Title IX Coordinator or another internal or external investigator appointed by the Title IX Coordinator. All investigators will receive 8-10 hours of annual training regarding the investigation of, and other issues relevant to, non-consensual sexual intercourse and contact, sexual exploitation, domestic and dating violence and stalking, including how to conduct an investigation that protects the safety of the parties and promotes institutional accountability.

Investigations may include one or more interviews with the Complainant, Respondent and any other identified witnesses. Interviews may take place in person, by phone or through electronic means. Investigations may also include the gathering and analysis of physical, documentary and/or other relevant evidence. Additionally, Complainants and Respondents may provide written statements, identify and/or present statements from fact witnesses or submit any other evidence that the investigator deems relevant. Complainants and Respondents may have their support persons present with them during interviews and meetings conducted during the investigation. Timely notice will be provided to Complainants and Respondents of all interviews/meetings at which they may/must be present, and both parties will be provided with timely and equal access to information. Investigations typically take between 20 and 35 calendar days.

If at any point during the investigation it is determined that there is no reasonable cause to believe that sexual misconduct occurred, the Title IX Coordinator may terminate the investigation and refer the matter to the appropriate campus office for resolution or close the matter with no further action.

b. Prior Sexual History. In general, a Complainant’s prior sexual history is not relevant and will not be admitted as evidence during an investigation. However, where there is a current or ongoing relationship between the Complainant and the Respondent, and the Respondent alleges that consent was given, the prior sexual history between the parties may be relevant to assess the manner and nature of
communications between the parties. The mere fact of a current or previous dating or sexual relationship, by itself, is insufficient to constitute consent. Any prior sexual history of the Complainant with other individuals is typically not relevant and will not be permitted except under very limited exceptions. The investigator may consider prior or subsequent allegations of, or findings of responsibility for, similar conduct by the Respondent to the extent such information is relevant.

c. **Investigative Report.** After the investigation has been completed, the investigator will prepare a report containing: summaries of interviews with the Complainant, Respondent and third-party witnesses; a description and analysis of other relevant information collected, such as written statements, photographs, physical evidence, electronic records and/or forensic evidence and the supporting documentation, where appropriate; a statement of the investigator’s material findings of fact; a determination as to whether or not there is sufficient information to establish, by a preponderance of the evidence, that a violation of the College’s Sexual Discrimination and Misconduct Policy occurred and the rationale for such determination; and any other relevant information concerning the investigation and/or these procedures.

Before the report is finalized and a determination has been made, the investigator will forward to each party a summary of the party’s own interview for review. The parties may submit any additional comments, evidence or suggested factual corrections to the investigator within three (3) calendar days of the date on which they were provided with their interview summaries. Upon receipt of any additional information from the parties, or after the three (3) calendar day period has lapsed without comment, the investigator will incorporate any additional information and make a determination as to whether there is sufficient information to establish, by a preponderance of the evidence, that a violation of the College’s Sexual Discrimination and Misconduct Policy occurred. The investigator will issue the final report to the Complainant and Respondent simultaneously upon its completion. If a finding of policy violation is made, the report will also be forwarded to the designated sanctioning official, as set forth in subsection 8 below, for issuance of sanctions.

d. **Standard of Proof.** The investigator will determine whether or not there is sufficient information to establish, by a preponderance of the evidence, a violation of the College’s Sexual Discrimination and Misconduct Policy. A preponderance of the evidence means whether the information provided during the investigation supports a determination that it is "more likely than not" that a violation of the College’s Sexual Misconduct and Discrimination Policy occurred.

8. **Sanctions and Remedies.** If the investigator finds, based on a preponderance of the evidence, that the Respondent violated the College’s Sexual Discrimination and Misconduct Policy, the final report will be forwarded to the appropriate sanctioning official for a determination of sanctions.

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

Each sanctioning official will receive 8-10 hours of annual training regarding issues related to sexual misconduct, as well as sanctioning guidelines consistent with relevant federal and state law and regulations.

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1 In cases where a Complainant is a non-student or non-employee, a letter of findings, determination and rationale for the determination will be provided to the non-student or non-employee party in lieu of the entire report.
Disciplinary sanctions for violation of the College’s Sexual Discrimination and Misconduct Policy include:

- Verbal or written warning;
- Mandatory educational programming;
- Community service;
- Probation;
- Removal from housing or other campus programs/activities/leadership positions;
- Restrictions regarding entering certain buildings or areas of campus;
- Performance improvement/management process (employees only);
- Suspension from school or employment (with or without pay, in the case of employees);
- Termination of contract with the College; and/or
- Dismissal or other separation from the College.

Additional corrective action may also be taken, including those remedies set forth in the interim measures section (Section 4 above) and any other appropriate broad-based remedial action.

Not all acts of sexual misconduct are equally serious offenses. Therefore, the designated sanctioning official may impose whatever sanction(s) from the above list the sanctioning official believes is (are) fair and proportionate to the finding of violation. The sanctioning official may consider the Respondent’s record of past violations of the College’s Sexual Discrimination and Misconduct Policy, as well as the nature and severity of such past violation(s). The sanctioning official will also determine whether the sanction will be implemented immediately or will be stayed if a party appeals the determination.

Within five (5) days after receiving the investigator’s report, the sanctioning official will notify both parties simultaneously, in writing, of the sanctions issued, the date the sanctions will be implemented and relevant information regarding the appeals process. The sanctioning official will also provide a copy of this written notice to the Title IX Coordinator. The time periods referenced in this section can be extended as necessary for good cause by the sanctioning official with notice to the parties of the extension and an explanation of the reason for the extension.

9. Student-Respondent Withdrawal While Charges Are Pending. Student-Respondents with pending sexual misconduct matters may not withdraw from the College. Should a student-Respondent decide to leave and not participate in the investigation and other portions of the procedures set forth herein, the process will nonetheless proceed in the student-Respondent’s absence to a reasonable resolution. The student-Respondent will not be permitted to return to the College until any sanctions issued have been satisfied. Consistent with Section 13 below, sanctions of suspension or separation from the College will be permanently recorded on a student’s transcript.

10. Student-Respondent Failure to Complete Sanctions. Student-Respondents who fail to complete issued sanctions may be placed on academic hold and prohibited from registering for classes, acquiring transcripts and accessing student accounts and/or grade reviews.

11. Appeals. Either party may appeal the investigator’s determination and/or any sanction issued by submitting a written request for appeal, with supporting documentation, to the Chair of the Sexual Misconduct Appellate Board, within five (5) calendar days of the date of receipt of the investigator’s final report or the written notice of sanctions, whichever is later.

a. Grounds for Appeal. Appeals will only be considered on the following three grounds:
• The existence of procedural error(s) significant enough to alter the outcome;
• Existence of new and significant evidence which was not reasonably available at the time of the initial investigation and would likely alter the outcome; and/or
• The sanctions imposed are substantially disproportionate to the violation.

Mere disagreement with the decision is not grounds for appeal.

b. Appointment of Appellate Panel. Within three (3) calendar days of receiving a request for appeal, the Chair of the Sexual Misconduct Appellate Board will appoint three (3) members of the Sexual Misconduct Appellate Board to sit as an appellate panel to decide the appeal based on majority rule. The Sexual Misconduct Appellate Board is a standing committee of eight (8) voting members, and a non-voting Sexual Misconduct Appellate Board Chair, drawn from the College’s faculty and/or full-time staff members. The College President appoints members of the Sexual Misconduct Appellate Board for three-year terms, which can be renewed. Both parties will be notified simultaneously in writing of the three (3) individuals appointed to their appellate panel.

c. Notice to Non-Appealing Party and Other Relevant Officials. Upon receipt of an appeal, the Chair of the Sexual Misconduct Appeals Board will forward the appeal and its supporting documentation to the non-appealing party. Additionally, the Chair will forward a copy of the appeal and supporting documentation to the Title IX Coordinator and sanctioning official (where applicable).

d. Non-Appealing Party Response. The non-appealing party may submit a written response and supporting documentation to the Chair of the Sexual Misconduct Appellate Board 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 appellate panel any relevant clarifying information within the same timeline. In cases where the appeal is based upon disproportionality of the sanctions, the sanctioning official may submit to the appellate panel any clarifying information within the same timeline. Upon receipt (or expiration of the five days) the Chair will forward the appeal and responsive and/or clarifying documentation, the investigator’s report and the written sanction notice (if applicable) to the appointed appellate panel for review.

e. 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.

f. Appellate Panel Options: After considering all the relevant documentation, the appellate panel may:

• 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;
• Uphold the original finding and/or sanction;
• Remand the case to the original investigator for consideration of new evidence and issuance of a new determination;
• Appoint a new investigator to conduct a new or additional investigation where significant procedural error occurred during the course of the original investigation; or
• Refer the case back to the sanctioning official for reconsideration of the sanction (with or without recommendations).

g. Timeline for Appellate Determination. The appellate panel will make a determination within five (5) calendar days of receipt of the appeal materials. The Chair of the Sexual Misconduct Appellate Board
will notify the parties simultaneously in writing of the outcome of the appeal within three (3) calendar days of the date of the determination. **All appellate panel decisions are final.**

All appellate time periods set forth in this section can be extended as necessary for good cause by the Chair of the Sexual Misconduct Appellate Board with notice to the parties of the extension and an explanation of the reason for the extension.

**h. Training of the Sexual Misconduct Appellate Board.** The Chair and all members of the Sexual Misconduct Appellate Board will receive 8-10 hours of annual training regarding issues related to sexual misconduct and guidance for conducting appeals in a way that protects the rights of all parties, promotes institutional accountability and complies with state and federal law.

**12. Conflict of Interest.** The College requires any individual participating in the investigation, sanctioning or appeal of sexual misconduct matters to disclose any potential or actual conflict of interest. If a Complainant or Respondent believes that an investigator has a conflict of interest, the party should submit a request to replace the investigator to the Title IX Coordinator. If the Title IX Coordinator is the investigator believed to have a conflict, the party should submit such request to the Dean of Students (when requesting party is a student) or Director of Human Resources (when requesting party is an employee). In cases where a party believes that one of the appointed appellate panel members has a conflict of interest, a request to replace the appellate panel member should be submitted to the Chair of the Sexual Misconduct Appellate Board. In cases where a party believes that the sanctioning official has a conflict of interest, a request to replace the sanctioning official should be submitted to the President of the College.

In all cases, requests to replace an individual due to conflict of interest must be submitted (to the above referenced individuals) within three (3) days of a party’s notice of the conflicted individual’s participation. The written request must include a description of the conflict. If it is determined that a conflict of interest exists, the College will take steps to address the conflict as appropriate to maintain an impartial process.

**13. Records.** The investigator’s report, the notice of sanction and/or appellate determination, will be maintained by the Office of Student Affairs as part of a student-Respondent’s conduct record and with the Director of Human Resources as part of an employee-Respondent’s employment file. All notes and documents exclusively used by the investigator but not made part of the final report will be destroyed after an appellate determination (or, if no appeal, a sanction or final determination) is made. Suspension and dismissal are permanently noted on a student’s transcript. The conduct files of students who have been suspended or dismissed from the College are maintained by the Office of Student Affairs for no fewer than seven (7) years after the student’s departure from the College. Employment records are maintained consistent with the Illinois Personnel Records Review Act and all other state and federal requirements.

**14. Non-Disclosure Agreements.** The College will not require a party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the re-disclosure of information related to the outcome of the proceeding.

**Enacted:** August 28, 2015
**Amended:** June 21, 2016