

Newberry College
Sexual Misconduct Response Policy
Adopted August 14, 2020

I. Introduction and Scope of Policy

Newberry College complies with Title IX of the Education Amendments of 1972 (“Title IX”), which prohibits sex discrimination in education programs and activities receiving federal financial assistance. The purpose of the Sexual Misconduct Response Policy (“Policy”) is to define the prohibited conduct, describe the process for reporting violations of the Policy and for filing Formal Complaints, outline the process used to investigate and adjudicate alleged violations of Policy, and identify the resources available to Complainants and Respondents.

This Policy prohibits sex discrimination in accordance with Title IX. This Policy further prohibits sexual harassment (“Sexual Harassment”), as defined by current regulations to include certain gender-based harassment, sexual assault, dating violence, domestic violence and stalking, when such Sexual Harassment occurs within an “education program or activity” of the College, against a person in the United States. An “education program or activity” includes locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the College. Anyone may experience Sexual Harassment, irrespective of gender identity or sexual orientation. This Policy also prohibits retaliation against any person for exercising any right or privilege under this Policy, or because the individual has made a report or complaint, testified, assisted or participated in an investigation, proceeding or hearing under this Policy.

As described further below, Newberry College has designated a Title IX Coordinator to coordinate compliance with this Policy, and respond to inquiries, reports and complaints under this Policy.

Allegations of sexual misconduct that do not meet the definition of Sexual Harassment under this Policy shall be addressed under other applicable College policies, such as the Student Code of Conduct or the Anti-Harassment Policy. However, allegations that do meet the definition of Sexual Harassment under this policy will only be addressed in accordance with this policy. Subsequent proceedings on the same alleged conduct of Sexual Harassment being investigated under this policy will not be addressed under the Student Code of Conduct or Anti-Harassment Policy following resolution of the allegation under this policy. Generally speaking, the identity of the Respondent(s) will determine which Policy will apply to a matter involving sexual misconduct that is dismissed under this Policy but that may violate other College policies. Notwithstanding, the College maintains sole discretion as to whether such other sexual misconduct and/or other misconduct will be addressed under its Student Code of Conduct or Anti-Harassment Policy.

II. Definitions

“Actual Knowledge” means notice of Sexual Harassment or allegations of Sexual Harassment to the Title IX Coordinator or any Official With Authority or Responsible Employee as defined herein. However, the College is not deemed to have actual knowledge when the only official or employee with actual knowledge is the respondent.

“Child Abuse” means sexual abuse or exploitation of a person who is under sixteen (16) years old.

“Coercion” means the use of express or implied threats, intimidation, or physical force which places an individual in reasonable fear of immediate harm or physical injury.

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

“Consent” means mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity. Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. Silence alone, without actions evidencing permission, does not demonstrate consent. While consent may be expressed by words or by actions, it is highly recommended that consent be expressed and obtained verbally. Non-verbal consent expressed through actions may lead to confusion and potential for misunderstandings, which may lead to a violation of this Policy. It is the responsibility of the initiator of any sexual activity to obtain their partner’s consent. An individual’s use of alcohol or drugs does not diminish that individual’s responsibility to obtain consent if that individual is the one who initiates sexual activity. Consent must be knowing and voluntary. To give consent, a person must be of age in this state. Assent does not constitute consent if obtained through “coercion” or from an individual whom the respondent knows or reasonably should know is “incapacitated”.

Consent to engage in sexual activity may be withdrawn by any person at any time. Once withdrawal of consent has been expressed, the sexual activity must cease immediately. Consent is automatically withdrawn by a person who is no longer capable of giving consent due to incapacitation. A current or previous consensual dating or sexual relationship between the Parties does not itself imply consent or preclude a finding of responsibility under this Policy.

“Dating Violence” means violence committed by a person--(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; (iii) the frequency of interaction between the persons involved in the relationship.

“Domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant

monies, 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 jurisdiction.

“Formal Complaint” means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the College investigate the allegation of sexual harassment. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the College. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, by email, or by using the Incident Reporting Form available on Wolf Den, by using the contact information contained in Section III – B of this Policy. As used in this definition, the phrase “document filed by a complainant” means a document or electronic submission that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint.

“Grievance process” means the process during which the College will investigate complaints alleged to have violated this Policy.

“Incapacitated” means, by reason of mental or physical condition, an individual is manifestly unable to make a knowing and deliberate choice to engage in sexual activity. Someone who is drunk or intoxicated is not necessarily incapacitated. Individuals who are asleep, unresponsive, or unconscious are incapacitated. Among the factors the College will use to assess whether someone is incapacitated for purposes of this Policy are: inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance. The existence of any one of these factors may support a finding of incapacitation for purposes of this Policy.

“Party” or **“Parties”** means a Complainant or Respondent, or Complainant(s) and Respondent(s) collectively.

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

“Responsible Employees” means all employees and full-time contractors except those employees or full-time contractors who have legally-defined confidentiality privileges, including but not limited to College counselors, nurses and pastors. Exempted from this section includes the College's physical and mental health counselors.

“Retaliation” means intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege under this Policy. Retaliation may be directed against a Party, or against anyone who participates in any process under this Policy. However, charging an individual with a College Policy violation for making a materially false statement in bad faith in the course of a grievance

proceeding under this Policy does not constitute retaliation under this Policy. A determination regarding responsibility, alone, will not be sufficient to conclude that any Party made a materially false statement in bad faith.

Notwithstanding this definition of retaliation, the exercise of rights protected under the First Amendment of the U.S. Constitution does not constitute retaliation under this Policy. A person engaged in retaliatory conduct is subject to the disciplinary sanctions under this Policy. For students, this may include but is not limited to denial of certain privileges, disciplinary probation, suspension, and/or expulsion. For employees, this may include but is not limited to warnings, suspensions, and/or termination. The College will consider interim measures in response to retaliation-related concerns in order to stop prohibited conduct and its recurrence. In some instances, this may lead to the removal of the person accused of retaliation from campus pending resolution of the matter.

“Sex Discrimination” means gender-based harassment, sexual assault, sexual violence, or sexual misconduct.

“Sexual Assault” means a forcible or nonforcible sex offense as follows:

Sex Offenses, Forcible—Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.

1. Forcible Rape—(Except Statutory Rape) The carnal knowledge of a person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.
2. Forcible Sodomy—Oral or anal sexual intercourse with another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
3. Sexual Assault With An Object—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
4. Forcible Fondling—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 his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Sex Offenses, Nonforcible—Unlawful, nonforcible sexual intercourse.

1. Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
2. Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of consent.

“Sexual Exploitation” means taking nonconsensual or abusive sexual advantage of another for one’s own advantage or benefit, or to benefit a person other than the one being exploited. Examples of sexual exploitation may include, but are not limited to:

1. Intentionally exposing a private or intimate part of one’s body in a lewd manner;
2. Committing any other lewd act in a public place;
3. Prostituting another student;
4. Non-consensual photographing or video or audio recording of nude or sexually-explicit images or sexual activity and/or non-consensual transmitting, sending, disclosing or publicizing such images, videos, audio recordings, photographs or likeness, in whole or in part, by any means or medium, including but not limited to texting, email, live-streaming or social media;
5. Exceeding the boundaries of explicit consent, such as allowing friends to hide in a closet to witness one’s consensual sexual activity.
6. Engaging in non-consensual voyeurism; and/or
7. Knowingly transmitting a sexually transmitted disease/infection or HIV to another person.

“Sexual Harassment” means conduct on the basis of sex that also satisfies one or more of the following: (1) employee conditioning the provision of an aid, benefit or service of the College on an individual’s participation in unwelcome sexual conduct; (2) 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; or (3) sexual assault (which includes dating violence, domestic violence and stalking, as defined herein).

“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to-- (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

“Supportive Measures” means 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 Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the College’s 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 sexual harassment. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the College's ability to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

III. Reporting and Complaint Procedures

A. General Principles

The College strongly encourages individuals affected by sex discrimination, sexual harassment and sexual assault (including dating violence, domestic violence and stalking) to report all such incidents and obtain support services. Although the College does not limit the time frame for reporting allegations or for filing a Formal Complaint under this Policy, the College can most effectively respond to allegations of sex discrimination, sexual harassment and sexual assault if a report is made as promptly as possible after the alleged violence or misconduct occurs.

B. Reporting Sexual Harassment; Supportive Measures

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), or retaliation under this Policy, in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator below, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such 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 below for the Title IX Coordinator.

Contact Information:

Rev. Dr. Christina L. Wendland, Associate Dean for Academic Affairs

Newberry College

2100 College St.

Newberry, SC 29108

803-321-5193 or christina.wendland@newberry.edu

Alternatively, any person may report sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex

discrimination or sexual harassment) or retaliation under this Policy, to a Responsible Employee, as defined herein, in person, by mail, by telephone, by electronic mail, the Incident Reporting Form on Wolf Den, or by any other means that results in the Responsible Employee receiving the person's verbal or written report. **Responsible Employees must promptly advise the Title IX Coordinator of any report, allegations or observations of sexual harassment, including the identities of the individuals involved.** This is required even if the person(s) affected by the Policy violation is unsure about pursuing a Formal Complaint. Failure of a Responsible Employee to comply with this paragraph may result in disciplinary action, up to and including termination.

Upon receiving a report of sexual harassment the Title IX Coordinator shall:

1. promptly contact the Complainant to discuss the availability of Supportive Measures;
2. consider the Complainant's wishes with respect to Supportive Measures;
3. inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint; and
4. explain to the Complainant the process for filing a Formal Complaint;
5. Confirm the method and manner for which the Parties involved desire to receive official notices and information for the duration of proceedings related to a report under this policy. The parties will choose between mail, personal delivery (on campus only), or certified mail.

In all cases where a report of sexual harassment is made under this Subsection, the College will keep the Complainant's identity confidential (including from the Respondent), unless disclosing the Complainant's identity is necessary to provide Supportive Measures for the Complainant (e.g., where a no-contact order is appropriate and the Respondent would need to know the identity of the Complainant in order to comply with the no-contact order, or campus security is informed about the no-contact order in order to help enforce its terms).

Any person may choose to make a report anonymously. Where a person makes an anonymous report, the College will comply with this Section to the fullest extent possible, but may be limited in its ability to do so if the identity of the Complainant(s) is unknown.

All individuals are encouraged to report sexual misconduct that may also violate criminal law to both the College and to local law enforcement. These processes are mutually exclusive.

In accordance with South Carolina law, the College **requires** all personnel, including faculty, staff, students, as well as third-Parties, to report suspected child abuse of which they are made aware in their capacity of employment or duties. Any uncertainty about whether reporting Child Abuse should always be resolved in favor of making a report to law enforcement.

C. Formal Complaints of Sexual Harassment; Supportive Measures

A Complainant may file a Formal Complaint of sexual harassment against a Respondent to the Title IX Coordinator in person, by mail, or by email, by using the contact information listed below for the Title IX Coordinator. **A Formal Complaint must be a document or electronic submission that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.** A Complainant may transform a report made via a Wolf Den incident report by affixing their physical or digital signature to the document. A Formal Complaint must allege sexual harassment against a Respondent and request that the College investigate the allegation(s) of sexual harassment. **Complainants who seek to file a Formal Complaint are encouraged to use the Formal Complaint form, obtained from the Title IX Coordinator, but are not required to do so.**

Contact Information:

Rev. Dr. Christina L. Wendland, Associate Dean for Academic Affairs

Newberry College

2100 College St.

Newberry, SC 29108

803-321-5193 or christina.wendland@newberry.edu

Reporting sexual harassment, whether verbally or in writing, to Responsible Employees or anyone other than the Title IX Coordinator, does not constitute a Formal Complaint.

Where a Complainant desires to initiate the Formal Complaint process, the Complainant cannot remain anonymous or prevent the Complainant's identity from being disclosed to the Respondent(s). **However, based upon an anonymous report or complaint, the Title IX Coordinator may file a Formal Complaint by signing a document alleging sexual harassment against a Respondent and requesting that the College investigate the allegation of sexual harassment.** Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a Party under this Policy.

Upon receiving a Formal Complaint, the Title IX Coordinator shall:

1. promptly contact the Complainant to discuss the availability of Supportive Measures;
2. consider the Complainant's wishes with respect to Supportive Measures

D. Confidential Resources

Persons affected by sexual misconduct are encouraged to speak with confidential resources offered by the College, including but not limited to College counselors, nurses and pastors. Such confidential resources are bound by legally-defined confidentiality privileges and are obligated to maintain confidentiality except in instances of child abuse and other circumstances prescribed by law.

E. Notice Under this Policy

Both the Complainant and Respondent will be required to select, at their first contact with the Title IX coordinator the manner in which they wish to receive notices as related to the reported allegations. The options for receipt of notice are via email, via hand-delivery (on campus only), or via certified mail. Under this policy, all notice will be considered received once the delivery method selected has been completed. If the email option is selected, the party agrees to truthful and accurately respond to a “read-receipt” request. If there is an address change affecting this provision, the party must immediately notify the Title IX coordinator of any address changes.

F. Amnesty

Students who make a report or file Formal Complaints in good faith under this Policy will not be disciplined by the College for a violation of the College's drug and alcohol possession or consumption policies that may have occurred in connection with the reported incident(s).

G. Emergency Removal

Prior to removing a Respondent from its education program or activity on an emergency basis, the College shall: (1) undertake an individualized safety and risk analysis; (2) determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and (3) provide the Respondent and Complainant with notice of the emergency removal and provide the Respondent with an opportunity to challenge the decision immediately following the removal.

A Respondent seeking to challenge a decision ordering emergency removal must submit a written request specifying the reason(s) the emergency removal should be overturned to Ms. Adia Daniels, Assistant Dean of Students, within 5 days of receiving notice. A written notification of Ms. Daniels' decision as to whether the emergency removal is sustained or overturned will be provided to the Respondent and Complainant(s) within 3 days of receipt of Respondent's written request.

H. Administrative Leave

The College may determine to place a non-student employee Respondent on administrative leave during the pendency of the grievance process. The College, in its sole discretion, shall determine whether the leave will be paid or unpaid.

IV. Disposition of Formal Complaints and Pre-Investigation Process

A. Initial Review of Formal Complaint; Dismissal

Promptly upon receipt of a Formal Complaint, the Title IX Coordinator shall assess whether the Formal Complaint is to be dismissed on a required or permissive basis.

The Title IX Coordinator must dismiss a Formal Complaint, if any time during the investigation or hearing:

- (i) the conduct alleged in the Formal Complaint would not constitute Sexual Harassment as defined under this Policy, even if proven;
- (ii) the conduct alleged in the Formal Complaint did not occur in the College's education program or activity; or
- (iii) the conduct alleged in the Formal Complaint did not occur against a person in the United States

The Title IX Coordinator may dismiss a Formal Complaint, if at any time during the investigation or hearing:

- (i) a complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- (ii) the Respondent is no longer enrolled or employed by the College;
- (iii) specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

If the Title IX Coordinator determines to dismiss the Formal Complaint, the Title IX Coordinator shall communicate the determination along with the reason(s) therefore ("Notice of Dismissal"), to the Parties simultaneously in writing, within 10 College Business days after receiving the Formal Complaint. The Parties shall have an opportunity to appeal the dismissal pursuant to the procedures set forth in this Section. If the Title IX Coordinator determines not to dismiss the Formal Complaint, the Title IX Coordinator shall provide notice of the allegations to the Parties as prescribed by Section IV - F, within 7 days after receiving the Formal Complaint.

Prior to signing a Formal Complaint, Title IX Coordinator shall first assess whether the allegations meet the definition of Sexual Harassment under this Policy. The Title IX Coordinator shall not sign a Formal Complaint that requires dismissal under this Section.

B. Appeal of Dismissal of Formal Complaint

Any Party may appeal a dismissal of a Formal Complaint by submitting a written notice of appeal of dismissal ("Appeal of Dismissal"), explaining the reason(s) therefore, to the Title

IX Coordinator within 3 days of receiving the Appeal of Dismissal. A Party may appeal dismissal on the following grounds

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding dismissal was made, that could affect the outcome of the matter; and/or
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter

Promptly upon receiving any Appeal(s) of Dismissal, the Title IX Coordinator shall notify all other Parties in writing and provide them with 3 days to submit a written statement in support of, or challenging, the dismissal. The Title IX Coordinator will submit the Appeal(s) of Dismissal to Dr. Sandra Rouse, Dean of Students, for consideration. Dr. Rouse shall consider any Appeal(s) of Dismissal and simultaneously provide the Parties with a written decision, including the reason(s) therefore, within 10 days of receipt of any Appeal(s) of Dismissal or additional written statements in support of, or challenging, the dismissal, whichever is later. This decision is final and not subject to further review.

C. Surviving Allegations after Dismissal of Formal Complaint

In instances where the Title IX Coordinator determines to dismiss a Formal Complaint, but the Formal Complaint alleges sexual or other misconduct that may violate other College policies, the Title IX Coordinator shall communicate in the Notice of Dismissal that the allegations may violate other College policies and will be addressed in accordance with such policies. Generally speaking, the identity of the Respondent(s) will determine which Policy will apply to a matter involving sexual misconduct that is dismissed under this Policy but that may violate other College policies. Notwithstanding, the College maintains sole discretion as to whether such other sexual misconduct and/or other misconduct will be addressed under its Student Code of Conduct or Anti-Harassment Policy.

D. Consolidation

The Title IX Coordinator may consolidate Formal Complaints as to allegations of 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 sexual harassment arise out of the same facts or circumstances. The decision of whether and how to consolidate Formal Complaints is within the Title IX Coordinator's discretion. Where a grievance process involves more than one Complainant or more than one Respondent, references to the singular "Party," "complainant," or "respondent" include the plural, as applicable.

Where a Formal Complaint makes allegations of Sexual Harassment that survive dismissal, but also alleges sexual or other misconduct that may violate another College Policy(ies), arising out of the same facts or circumstances and involve more than one Complainant, more than one Respondent, or counter-complaints by a Party(ies) against another Party(ies), the Title IX Coordinator may, within his or her discretion and in accordance with such other College Policy(ies), consolidate all such allegations and

potential violations and adjudicate them under the process prescribed by this Policy. Similarly, where there are multiple Complainants and one Respondent, the Title IX Coordinator may, within his or her discretion, consolidate the Formal Complaints where the allegations of Sexual Harassment arise out of the same facts or circumstances.

The Title IX Coordinator shall endeavor to make decisions regarding consolidation as early in the Grievance Process as possible. When the Title IX Coordinator determines to consolidate Formal Complaints or allegations under this Section, he or she shall advise the Parties of the consolidation in the Notice of Allegations under Section IV.F, or in a writing as soon thereafter as practicable.

E. Continuing Review

If at any time, the Title IX Coordinator receives information or evidence that may indicate that the Formal Complaint is required to be dismissed or may be dismissed under this Section, he or she shall assess whether the Formal Complaint is to be dismissed on a required or permissive basis in light of the new information or evidence. If at any time the investigator or member of the Hearing Panel receives information or evidence that may indicate that the Formal Complaint is required to be dismissed or may be dismissed under this Section, they shall immediately notify the Title IX Coordinator and provide the Title IX Coordinator with the new information or evidence in writing; the Title IX Coordinator shall then assess whether the Formal Complaint is to be dismissed on a required or permissive basis in light of the new information or evidence. If the Title IX Coordinator determines to dismiss the Formal Complaint, the Title IX Coordinator shall follow the procedure relating to dismissals in this Section. However, if the Formal Complaint being dismissed had been consolidated with allegations of sexual or other misconduct under another College Policy(ies), such allegations of sexual or other misconduct may continue to be investigated and/or adjudicated in accordance with applicable College Policy(ies), which shall be indicated in the Notice of Dismissal. If the Title IX Coordinator determines not to dismiss the Formal Complaint, the Title IX Coordinator shall keep a written record of the reason(s) for his or her decision. Any party may appeal the dismissal of the Formal Complaint at that time, using the procedures in Section IV - B above. Add to appeal process for dismissal of formal complaint.

F. Notice of Allegations

Within 3 days after determining that the Formal Complaint is not subject to dismissal and shall proceed, or, in the event a Party appeals a dismissal, within 3 days of the issuance of a decision affirming the appeal dismissal, the Title IX Coordinator shall provide written notice of the allegations (“Notice of Allegations”) to the Parties who are known, which shall include the following:

- (i) Notice of the College’s grievance process, including its informal resolution process, under this Policy;
- (ii) Notice of the allegations of sexual harassment potentially constituting Sexual Harassment as defined in this Policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview;

- (iii) Sufficient details include the identities of the Parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known;
- (iv) A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- (v) A statement informing the Parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, who may accompany them to any related meeting or grievance proceeding. The statement shall explain that the College shall not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or grievance proceeding.
- (vi) A list of the names and titles of available advisors from which to choose, and a statement that the Parties must notify the Title IX Coordinator of their choice of advisor within 10 days of the Notice of Allegations; and
- (vii) A statement informing the Parties that they may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which the investigator(s) does not intend to rely in reaching a determination regarding responsibility, and including inculpatory or exculpatory evidence whether obtained from a Party or other source;
- (viii) A statement informing the Parties of that the College's Student Code of Conduct and Anti-Harassment Policy prohibit knowingly making false statements or knowingly submitting false information during the grievance process.

If the Title IX Coordinator consolidated two or more Formal Complaints, the Notice of Allegations must advise the Parties of such consolidation with other Formal Complaint(s). Similarly, if the Title IX Coordinator consolidated a Formal Complaint(s) with allegations of sexual or other misconduct under another College Policy(ies), the Notice of Allegations must include such charges of sexual or other misconduct and specify the provisions and policies alleged to have been violated, and must advise the Parties of such consolidation, including the allegations and charges.

G. Amended Notice of Allegations

If, in the course of an investigation or proceeding, the College receives an additional Formal Complaint(s) arising out of the same or related facts or circumstances or involving some or all of the same Parties and/or witnesses, the Title IX Coordinator shall apply the process set forth in Section IV-A as to whether to dismiss the additional Formal Complaint(s). Similarly, if, in the course of an investigation or proceeding, the Title IX Coordinator receives information or allegations arising out of the same or related facts or circumstances or involving some or all of the same Parties and/or witnesses, which may prompt the Title IX Coordinator to consider signing a Formal Complaint, the Title IX Coordinator may sign a Formal Complaint(s) and consolidate such Formal Complaint(s) with the already-pending Formal Complaint. Title IX Coordinator may pause the proceedings to the extent necessary in order to comply with the process prescribed by Section IV-A of this Policy. If the Title IX Coordinator determines not to dismiss the

additional Formal Complaint(s), he or she may consolidate the additional Formal Complaint(s) with the current investigation or proceeding, within his or her discretion. In such event, the Title IX Coordinator shall send a revised Notice of Allegations to the Parties, which shall advise the Parties of such consolidation with other Formal Complaint(s), and of any new or additional allegations and charges.

If, in the course of an investigation or proceeding, the College receives information, allegations, or evidence that may indicate an additional violation of another College Policy arising out of the same facts or circumstances or involving some or all of the same Parties, the Title IX Coordinator, within his or her discretion, may decide to consolidate the additional charges in accordance with applicable College Policy(ies) with the pending proceeding under this Policy. In such event, the Title IX Coordinator shall send a revised Notice of Allegations to the Parties, which shall advise the Parties of such consolidation with other Formal Complaint(s), and of any new or additional allegations and charges.

H. Admission to Charges

If, in the course of an investigation or Grievance Process, the Respondent accepts responsibility for the charges by submitting a written notice to the Title IX Coordinator, the investigator will continue and conclude the investigation. In such case, an abbreviated hearing will be held in order to consider sanctions only. In consolidated cases involving multiple Respondents where only one or some Respondents accept the charges, or in cases the Respondent only accepts some charges but not others, the Grievance Process shall proceed in the ordinary course with regard to the remaining Respondents or charges.

I. Choice of Advisor

As stated above, the Parties are entitled to one (1) advisor of their choice, who may be, but is not required to be an attorney. Advisors must either be professionals (e.g., attorneys or experienced advocates) or at least adults capable of understanding the purpose and scope of cross-examination. The College maintains a list of neutral advisors that are available to the Parties at no cost. Should a Party choose to engage an advisor that the College does not provide, the Party is responsible for any such costs and fees associated with said advisor.

Within 10 days of the Notice of Allegations, each Party shall submit a written notification of advisor selection ("Advisor Selection Notice") to the Title IX Coordinator. The Advisor Selection Notice must indicate the Party's top five advisor choices from the list of available advisors, unless the Party seeks to engage an outside advisor or attorney on their own accord, in which case such Party shall provide the name, title and contact information for such outside advisor or attorney.

The Title IX Coordinator shall assign each Party their first choice of advisor, unless: (i) the advisor becomes unavailable due to illness, incapacity, death or any other legally-justifiable reason; or (ii) another Party or Parties also indicates the same advisor as their first choice. In the event a Party's first choice advisor becomes unavailable, the Title IX Coordinator shall assign the Party their next choice advisor, assuming availability. In the

event multiple Parties indicate the same advisor as their first choice, the Title IX Coordinator shall use a neutral method such as flipping a coin or putting names in a hat to determine which Party shall be assigned their top choice in advisor. A Party who does not get assigned to their top choice in advisor shall be assigned their next choice in advisor, assuming availability. Unless a Party has provided notice that they have selected an outside advisor or attorney, the Title IX Coordinator shall confirm in writing with each Party the name and contact information of their assigned advisor within 12 days of the Notice of Allegations.

A Party who chooses to use an outside advisor or attorney may seek to use a different outside advisor or attorney at any time, or may instead seek to request a College-provided advisor, upon written notice to the Title IX Coordinator. A Party who chooses to use a College-provided advisor may seek to instead use an outside advisor or attorney at any time, upon written notice to the Title IX Coordinator. A Party who chooses to use a College-provided advisor may request a different College-provided advisor at any time by submitting a written request to the Title IX Coordinator, including the reasons therefore.

V. Investigation

A. Timeframe

Upon receipt of a Formal Complaint, the Title IX Coordinator shall assign an investigator to gather information and prepare and investigative report. The assigned investigator shall promptly commence an investigation. In ordinary circumstances, the investigator shall complete the investigation within 30 days. The investigative report should be completed within 45 days after the referral. For good cause, these timeframes may be extended by the Title IX Coordinator with notice provided to all Parties

B. Evidence and Witnesses

The burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the investigator and not on the Parties. However, the investigator 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 investigator obtains that Party's voluntary, written consent.

The investigator shall provide at least five days written notice to a Party or witness whose participation is invited or expected, including the date, time, location, participants, and purpose of all investigative interviews or other meetings or proceedings.

The Parties shall have an equal opportunity to identify witnesses, including fact and expert witnesses, and to present other inculpatory and exculpatory evidence. The Parties shall not be restricted in their ability to discuss the allegations under investigation or to gather

and present relevant evidence. However, no individual shall attempt to alter or prevent a witness's testimony.

C. Investigative Interviews

The Parties shall have an equal opportunity to be accompanied by their advisor in any investigative interview or other meeting or proceeding under this Policy; however, advisors may not speak or participate during an investigative interview. A Party may take breaks in order to consult with their advisor. Upon approval of the College, a Party may have another person (other than the advisor) to attend an investigative interview or other meeting or proceeding under this Policy. No Party shall have the right to attend, or have their advisor attend, an investigative interview of another Party or witness.

D. Right to Inspect and Review Evidence

The investigator shall provide the 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 Formal Complaint, including the evidence upon which the investigator 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. Prior to completion of the investigative report, the investigator shall 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. Neither the Parties nor their advisors shall be permitted to disclose or disseminate the evidence to any person who is not a Party or witness or other participant in the Grievance Process. **Before sending such evidence to the Parties for inspection and review, the investigator shall redact from such evidence any information that is not directly related to the allegations (or that is otherwise barred from use any provision of this Policy, such as information protected by a legally recognized privilege, or a Party's treatment records if the Party has not given written consent).** The Parties shall have 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.

E. Investigative Report

The investigator shall complete the investigation and prepare an investigative report that fairly summarizes relevant evidence. The report may include credibility findings, but shall not make a determination regarding responsibility. The investigator shall redact from the investigative report any information that is not relevant, which is contained in documents or evidence that is relevant. At least 10 days prior to the hearing, the investigator shall send to each Party and the Party's advisor, if any, the investigative report, including all relevant evidence, in an electronic format or a hard copy, for their review and written response (if desired). The investigator shall concomitantly send the investigative report, including all relevant evidence, to the Title IX Coordinator. The Parties will have 5 days to submit any written response to the Title IX Coordinator.

F. No Bias or Conflict of Interest

Neither the Title IX Coordinator nor any individuals designated to serve as an investigator, decision-maker, or informal resolution facilitator shall have a bias or conflict of interest for or against Complainants or Respondents generally or an individual Complainant or Respondent. A Party may submit a written letter of concern relating to bias and/or conflict of interest at any time with the Title IX Coordinator; if the letter of concern relates to the Title IX Coordinator, the Party shall submit the letter to the Dean of Students. The Title IX Coordinator or the Dean of Students, shall promptly speak with the individual(s) alleged to have a bias or conflict of interest and conduct any other appropriate inquiry into the matter. The Title IX Coordinator or the Dean of Students shall make a determination as to whether the individual(s) alleged to have a bias or conflict of shall be removed from their role. If the individual(s) alleged to have a bias or conflict is removed from their role, the Title IX Coordinator or the Dean of Students shall appoint an alternate individual(s) to serve in their place. The decisions made under this paragraph are not subject to further review.

G. Investigations of Allegations of Misconduct Other than Sexual Harassment

Allegations of misconduct other than Sexual Harassment will be investigated in accordance with this Section but are not subject to the hearing procedures in Section VI of this Policy; rather, when such allegations are found to be substantiated by the investigator, a decision will be made pursuant to the Student Code of Conduct or policies applicable to faculty or employees, as appropriate.

VI. Hearing

A. Timing and Notice

A live hearing will be scheduled to take place no less than 10 days and no more than 30 days after the investigator sends the investigative report to each Party and the Party's advisor, if any. The Title IX Coordinator shall send the investigative report along with the relevant evidence to the Hearing Panel, and any timely received written response to the investigator, at least 5 days prior to the hearing.

No less than 10 days before the hearing, the Title IX Coordinator shall notify all Parties and Witnesses of the date, time and place of the hearing, or if the hearing is virtual, the access instructions. The notice shall request each Party and Witness to confirm their attendance in writing to the Title IX Coordinator no less than 7 days before the hearing.

B. Pre-Hearing Submissions

No less than five days prior to the hearing, the Parties shall each submit a pre-hearing submission ("Pre-Hearing Submission") to the Title IX Coordinator, to be disseminated to the hearing panel ("Hearing Panel"). The Pre-Hearing Submission shall include:

- (i) A written statement as to whether the Party intends to bring an advisor of choice to the hearing, and if so, the name and contact information of such advisor;

- (ii) The Party's written response, if any, to the investigator's report;
- (iii) Any objections to the relevancy of any evidence; and
- (iv) Whether the Party intends to make opening and closing statements.

C. Questions About Process

Prior to the hearing, all questions regarding hearing procedures shall be directed to the Title IX Coordinator in writing. The Title IX Coordinator shall endeavor to respond as promptly as possible, in most cases within 2 days. The questions and the Title IX Coordinator's response will be provided to both Parties and their advisors. Should any procedural questions arise during the hearing, such questions will be directed to the Hearing Panel.

D. Hearing Panel Constitution

The Hearing Panel will consist of five decision-makers composed of faculty and staff. Neither the Title IX Coordinator, the investigator nor a Party's advisor shall serve as a decision-maker. A three person Hearing Panel may hear a case when deemed necessary and approved by the Dean of Students or designee.

E. Hearing Officer

The decision-makers shall appoint one decision-maker to also serve as the hearing officer ("Hearing Officer"). The Hearing Officer shall oversee the hearing in accordance with this Policy.

F. Virtual and Live Hearings Permitted

Live hearings may be conducted with all Parties physically present in the same geographic location. At the request of either Party, or as may be necessary or appropriate due reason(s) within the College's discretion, the College will provide for the live hearing to occur virtually with any or all of the Parties, witnesses and other participants located in separate rooms or geographical locations with technology enabling the decision-makers and participants to simultaneously see and hear each other. Should any Party or advisor requiring any accommodations for the hearing, they should notify the Title IX Coordinator within 5 days of receiving the Notice of the Hearing.

G. Recording or Transcript Required

The College shall create an audio or audiovisual recording, or transcript, of all hearings and make it available to the Parties for inspection and review. The entire hearing must be recorded, including but not limited to cross-examination, opening and closing remarks, questions for the Hearing Panel, procedural discussions, objections and relevancy determinations, scheduling questions and the like. The Parties shall have an equal opportunity to inspect and review the recording or transcript of the hearing, however the College is not obligated to send the Parties a copy of the recording or transcript. Should a Party wish to have an audio or audiovisual recording transcribed, it may do so at his or her own expense.

H. Advisors

If a Party does not have an Advisor present at the live hearing, the College must 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. Advisors' participation in hearings is generally limited to cross-examination of the other Party and witnesses, including questions challenging credibility. At the conclusion of each Party's or witnesses' testimony, the Hearing Officer will ask each Party if their advisor has any additional questions for the Party witness. At that time, advisors may request that the Hearing Officer ask additional questions.

I. Cross-Examination and Relevance

Only relevant cross-examination and other questions may be asked of a Party or witness. The Hearing Panel must permit each Party's advisor to ask the other Party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the Party's Advisor of choice and never by a Party personally. The Hearing Officer will make real-time relevancy determinations related to each question asked prior to a witness or Party answering the question.

Where questioning or evidence is duplicative, the Hearing Panel may deem the questioning or evidence not relevant. Information protected by a legally-recognized privilege is not relevant.

Questions and evidence about the Complainant's sexual predisposition are not relevant. Questions and evidence about the Complainant's prior sexual behavior are not relevant except: (i) when offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or (ii) when specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent.

J. Party or Witness Not Subject to Cross-Examination

If a Party or witness does not submit to cross-examination at the hearing, the decision-makers must not rely on any statement of that Party or witness in reaching a determination regarding responsibility; provided, however, that the decision-makers cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. This provision does not preclude the decision-makers from reviewing evidence that may involve the Party or witness who refused to submit to cross-examination.

K. Rules of Decorum

The Hearing Officer of the panel is charged with the authority and discretion, consistent with what is required by this Policy, to impose rules of decorum and ensure that the live hearing proceed in an orderly, non-disruptive manner. All questioning must be relevant,

respectful and non-abusive. Yelling or raised voices is not permitted and questions must be asked in a non-abusive and non-intimidating manner. Badgering of a Party or witness is prohibited; repetition of the same question will be deemed irrelevant and, therefore, is not permitted.

If a Party's advisor of choice refuses to comply with a recipient's rules of decorum, the Hearing Panel may require the Party to use a different advisor. Similarly, if an advisor that the College provides refuses to comply with the rules of decorum, the Hearing Panel may provide that Party with a different advisor to conduct cross-examination on behalf of that Party.

L. Rules of Procedure

L.1. Opening and Closing Statements

The Parties shall have the option of offering opening and closing statements of 5 minutes each.

L.2. Cross-Examination

The Hearing Panel has the right and responsibility to ask questions and elicit information the Parties and witnesses on its own initiative to aid the Hearing Panel in obtaining relevant evidence both inculpatory and exculpatory. After each Advisor completes their questioning of a Party or witness, the Hearing Panel may privately convene in order to prepare any relevant questions it may have for such Party or witness. The Hearing Panel shall then ask any relevant questions of such Party or witness.

L.3. Relevancy Determinations – Questions and Evidence

Before a Complainant, Respondent, or Witness answers a cross-examination or other question posed by an Advisor or a member of the Hearing Panel, the Hearing Officer shall determine whether the question is relevant and explain any decision to exclude a question as not relevant. In order to determine relevancy, the Hearing Panel may ask advisor the reason the advisor seeks such evidence. The Hearing Panel's decision is not subject to further challenge at that time and the hearing shall proceed in an orderly fashion. However, the Hearing Panel may send to the Parties after the hearing any revisions to its explanation of a relevance decision that was provided during the hearing.

L.4. Breaks

The Hearing Panel shall afford short, reasonable breaks during the hearing, at the direction of the Hearing Officer.

M. Standard of Evidence; Written Determination

The Hearing Panel must objectively evaluate all relevant evidence both inculpatory and exculpatory, and must not give deference to the investigative report. The Hearing Panel must apply the preponderance of evidence standard to reach a determination regarding responsibility.

Within 10 days of the conclusion of the hearing, the Panel shall simultaneously send a written determination letter (“Written Determination”) to the Parties, which shall include:

- (i) Identification of the allegations potentially constituting Sexual Harassment as defined in this Policy;
- (ii) A description of the procedural steps taken from the receipt of the Formal Complaint through the Hearing Panel’s determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and hearing dates held;
- (iii) Findings of fact supporting the Hearing Panel’s determination;
- (iv) Conclusions regarding the application of this Policy to the facts;
- (v) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the Hearing Panel determines to impose on the Respondent, and whether Supportive Measures will be provided for the Complainant; and
- (vi) The College’s procedures and permissible bases for the Complainant and Respondent to appeal.

If the charges in the Notice of Allegations or Amended Notice of Allegations included other charges of sexual or other misconduct that were consolidated in the same proceeding, the Written Determination shall also provide the above-delineated information for said charges.

If an appeal is not timely filed, the determination regarding responsibility becomes final on the date on which the appeal would no longer be considered timely. If an appeal is filed, the determination regarding responsibility becomes final on the date that the Title IX Coordinator provides the Parties with the Written Determination of the result of the appeal.

N. Disciplinary Sanctions, Remedies and Supportive Measures

Remedies must be designed to restore or preserve equal access to the College’s education program or activity. Remedies may include disciplinary sanctions and/or Supportive Measures. The College shall not impose disciplinary sanctions against a Respondent unless and until a determination of responsibility for Sexual Harassment has been made against the Respondent pursuant to the Grievance Procedure set forth in this Section.

Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the College’s ability to provide the Supportive Measures.

The following disciplinary sanctions may be imposed upon a student responsible for a violation of this Policy, either singly and/or in combination:

N.1. Expulsion

Expulsion is permanent disciplinary separation from the College involving denial of all student privileges. Expulsion shall be effective on the date of notice of the expulsion, or later if so stated in the notice; and shall be entered into the student's permanent record (transcript). Students separated from the College by expulsion may not enter College premises or College-related premises without securing prior approval from the Dean of Students.

N.2. Suspension

Suspension is temporary disciplinary separation from the College involving denial of all student privileges. Suspension shall be effective on the date of notice of the suspension or later if so stated in the notice; shall be entered into the student's permanent record (transcript); and shall prescribe the date and conditions upon which the student may petition for readmission. Conditions for readmission may include, but are not limited to, disciplinary probation for a specified length of time; non-residence on campus; and restricted visitation to specified campus facilities. Students separated from the College by suspension may not enter College premises or College-related premises without securing prior approval from the Dean of Students. The suspension notation may be removed from the student's permanent record, by the Registrar, upon the student's graduation, by petitioning the Dean of Students, within the Dean's discretion. The suspension notation may also possibly be removed earlier by petitioning the Dean of Students, within the Dean's discretion.

N.3. Residence Hall Separation

Residence Hall Separation involves removal from the campus residence hall community. Such separation may be permanent or for a specified number of semesters. Such separation prohibits accessibility to all or designated residence halls and associated dining facilities. Visitation will not be permitted without securing prior approval from Assistant Dean of Students or Dean of Students. In no case will separation be less than the remainder of the semester in which it takes place. Conditions for readmission to the residence hall may include, but are not limited to, disciplinary probation for a specified length of time; and restricted visitation to specified campus facilities.

N.4. Disciplinary Probation

A period of review and observation during which a student has been officially notified that his/her conduct, although not serious enough to warrant suspension, was very inappropriate. Subsequent violations of College rules, regulations or policies (even after a particular probationary period expires) could result in a more severe sanction. Disciplinary Probation is a status which involves restrictions, conditions or terms imposed for a definite period of time. Restrictions, conditions, or terms of probation may include

but are not limited to: ineligibility to participate in all campus activities, events and/or sports; periodic contact with a designated member of the campus community; restrictions on accessibility to College facilities and/or housing areas; and change of housing assignment. Restrictions, conditions, and terms will be imposed for a specific length of time not to exceed the length of the probationary period. Failure to comply with the terms and conditions of the probation or additional behavior in violation of this code during the probationary period will likely result in more serious disciplinary action.

N.5. Conduct Probation

A period of review and observation during which a student has been officially notified that his/her conduct, although not serious enough to warrant suspension, was very inappropriate. Subsequent violations of College rules, regulations or policies (even after a particular probationary period expires) could result in a more severe sanction. Conduct Probation is a status which may involve restrictions, conditions or terms imposed for a definite period of time not to exceed the length of the probationary period. Restrictions, conditions, or terms of probation may include but are not limited to: periodic contact with a designated member of the campus community; restrictions on accessibility to College facilities and/or housing areas; and change of housing assignment. Restrictions, conditions, and terms will be imposed for a specific length of time not to exceed the length of the probationary period. Failure to comply with the terms and conditions of the probation or additional behavior in violation of this code during the probationary period will likely result in more serious disciplinary action.

N.6. Conduct Warning

Conduct Warning involves written notice to the student indicating that specific behavior or activity was in violation of this Policy and that repetition of similar or other unsatisfactory behavior would likely result in more serious disciplinary action. Conduct Warning may also involve conditions, such as those listed above, that are intended to be educational in nature.

N.7 No Contact Order

An order of 'no contact' is a restriction of contact between Parties, included direct and indirect contact, through a third-Party, and/or through technology or social media. It may be imposed for a specified period of time, or permanently.

N.8. Educational Sanctions

Including but not limited to: required participation in or attendance at appropriate educational program(s); sexual misconduct education or counseling; community service; apologies, essays or other appropriate discretionary assignments that fulfill the goals of education and reconciliation. The cost for attendance or participation is at the expense of the student. Note: Community service cannot be part of an event, sport, etc. the student is already involved in.

N.9. Transcript Notation

A temporary or permanent notation on the student's permanent record (transcript) that the student was found responsible for a violation of this Policy may be imposed.

The disciplinary sanctions that may be imposed upon an employee found to be responsible for a violation of this Policy, either singly and/or in combination, include but are not limited to written warning, disciplinary probation, reassignment or transfer, remedial measures such as trainings and educational programs, and/or termination. Where the Hearing Panel determines that a tenured faculty member is to be terminated, the case must then proceed through the procedures for termination of tenure specified in the Faculty Policies Manual.

VII. Appeals

Any Party may appeal a Written Determination by submitting a written notice of appeal of determination ("Appeal of Determination"), explaining the reason(s) therefore, to the Title IX Coordinator within 10 days of receiving the Written Determination. A Party may appeal the Hearing Panel's decision on the following grounds:

- Procedural irregularity (i.e. an error or mistake in the way the investigation or hearing) that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter;
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; and/or
- The sanctions assessed are substantially disproportionate to the findings.

The disciplinary sanction will remain in place during the appeal process.

Within three days of receiving any Appeal(s) of Determination, The Title IX Coordinator will conduct an initial review to determine if the appeal request meets the limited grounds and is timely. If the appeal is not timely or substantively eligible, the original finding and sanction will stand and the decision is final, and the Parties shall be notified in writing.

If the appeal has standing, the Title IX Coordinator shall notify all other Parties in writing and provide them with 5 days to submit a written statement in support of, or challenging, the determination. After the 5 day period, the Title IX Coordinator will submit the Appeal(s) of Determination, and any additional written statements in support of, or challenging, the determination, to the Appellate Panel for consideration. The Appellate Panel shall consist of three Campus Disciplinary Board members not previously involved in the case. The members of the Appellate Panel are appointed by the Assistant Dean of Student Affairs.

An appeal is not a hearing. The Appellate Panel will not hear testimony other than in exceptional circumstances within the Appellate Panel's discretion. The Appellate Panel shall consider Appeal(s) of Determination, and any additional written statements in support of, or challenging, the determination, and make a decision. The Appellate Panel will make a decision either upholding, overturning, or modifying the Written Determination and/or disciplinary sanction(s), and simultaneously provide the Parties

with a written decision, including the reason(s) therefore, within 10 days. This decision is final and not subject to further review.

VIII. Informal Resolution

Where the facts alleged in a Formal Complaint are not contested, or where the Respondent(s) has admitted, or wishes to admit responsibility, or where the Parties want to resolve a case without a completed investigation or adjudication, informal resolution may be an appropriate solution. Informal resolution may include, but is not limited to, mediation and conciliation, and various forms of restorative justice, to be determined within the discretion of the Title IX coordinator.

An informal resolution process may be available at any time: (1) after a Formal Complaint has been filed and is not dismissed pursuant to Section IV-A of this Policy; (2) after a Notice of Allegations has been issued to the Parties; and (3) prior to the Hearing Panel reaching a determination regarding responsibility. The Title IX Coordinator may choose to offer the Parties an informal resolution process. Alternatively, any Party may submit a written request to the Title IX Coordinator for an informal resolution process. The decision as to whether to offer or grant a request to engage an informal resolution process resides within the sole discretion of the Title IX Coordinator. An informal resolution process may take place, if deemed appropriate by the Title IX Coordinator, where only some Parties to a Formal Complaint (or consolidated Formal Complaints) seek to participate. In such a case, adjudication of the Formal Complaint (or consolidated Formal Complaints) shall continue as between the Parties who do not participate in the informal resolution process. Notwithstanding, an informal resolution process is never available to resolve: (i) allegations that an employee sexually harassed a student; (ii) allegations of sexual assault.

When the Parties have indicated to the Title IX Coordinator their assent to engage in an informal resolution process, the Title IX Coordinator shall provide the Parties with a written notice of information resolution (“Notice of Informal Resolution”) which shall include:

- (i) a statement of the allegations;
- (ii) a statement that no Party is required to participate in an informal resolution process;
- (iii) a statement that any Party may withdraw from the informal resolution process and resume the grievance process with regard to a Formal Complaint arising from the same allegations at any time prior to signing a resolution agreement;
- (iv) a statement that the Parties are required to keep all information and communications relating to the informal resolution process confidential both during and after the informal resolution process;
- (v) a statement that any statements or admissions disclosed during the informal resolution process shall remain confidential and shall not be used in a subsequent investigation or proceeding arising out of the same or any other Formal Complaint
- (vi) a statement that records relating to the informal resolution process will be maintained by the Title IX Coordinator and may be shared or disclosed in accordance with this Policy, FERPA and/or applicable federal or state law;

- (vii) a statement that notwithstanding the confidentiality requirements of the informational resolution process, should the informal resolution process fail to satisfactorily resolve the matter, or if any Party withdraws from the informal resolution process, no Party shall be restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence after the matter is referred back to the Title IX Coordinator for investigation and/or adjudication under this Policy;
- (viii) a statement that all Parties must provide their voluntary, written consent to engage in to the informal resolution process to the Title IX Coordinator;
- (ix) a statement that a record of the outcome, including a resolution agreement, if any, will be maintained by the Title IX Coordinator; and
- (x) A statement that should the informal resolution process fail to satisfactorily resolve the matter, or if any Party withdraws from the informal resolution process, the matter shall be promptly referred back to the Title IX Coordinator for investigation and/or adjudication under this Policy.

Upon receipt of each Party's voluntary written consent to participate in an informal resolution process, the Title IX Coordinator shall refer the matter to an informal resolution facilitator. The informal resolution facilitator shall promptly contact the Parties in writing to commence the informal resolution process, which may occur in person and/or virtually.

The College is not required to provide the Parties with advisors prior to entering into an informal resolution process, nor must it ensure that the Parties confer with advisors prior to entering into an informal resolution process. Advisors are not permitted to participate in an informal resolution process.

In the event a Formal Complaint is not resolved by way of an informal resolution process, the informal resolution facilitator shall not serve as a witness in a related investigation or hearing.

Outcomes of an informal resolution process may include, but are not limited to, any of the following (or any combination thereof):

- Make the Respondent(s) aware that his/her behavior is being perceived as Sexual Harassment, and make clear that the behavior is prohibited by this Policy;
- Make the Respondent aware that the purpose of this discussion is to achieve a change in behavior;
- Make clear that Policy forbids any retaliation against the Complainant, or against anyone who participates in any process under this Policy.
- Suggest possible resolutions of the problem, including but not limited to: a change in the offensive behavior, counseling, an apology to the Complainant(s), a reevaluation of a grade, extension of deadlines or other course-related adjustments, modifications of work or class schedules, leaves of absence, campus escort services, increased

security and monitoring of certain areas on campus, mutual restrictions on contact between the Parties or a change in the relationship between the Parties (i.e., changed advisor, class enrollment, athletic travel/hotel accommodations, or work or housing assignments);

- Make the Respondent(s) aware that a record of the outcome will be maintained by the Title IX Coordinator;
- Provide or continue Supportive Measures for the Complainant;
- Disciplinary measures designed to punish Respondent(s).

A resolution reached by way of an informal resolution process shall become final and binding upon all Parties signing a resolution agreement. Any resolution agreement shall continue the requirement that the Parties keep all information and communications relating to the informal resolution process confidential, and may contain additional confidentiality requirements as agreed by the Parties.

The informal resolution process should be completed within 10 days of the time a Notice of Informal Resolution is sent to the Parties. Should the informal resolution process fail to satisfactorily resolve the matter, or if any Party withdraws from the informal resolution process, the matter shall be promptly referred back to the Title IX Coordinator for investigation and/or adjudication under this Policy.

IX. Additional Considerations

A. Confidentiality.

The College must keep confidential the identity of Complainants, Respondents and witnesses, except as may be permitted by FERPA, as required by applicable law or as necessary to carry out a proceeding under this Policy. To the extent disclosure of the identity of Complainants, Respondents and/or witnesses is required by applicable law or is necessary to carry out a proceeding under this Policy, the College will make such disclosure only to the extent necessary.

Parties, advisors and witnesses are prohibited from photographing, scanning or recording by audio, video or other means the evidence, or disseminating the evidence to third Parties or to the public. Should dissemination become necessary for litigation or other legal proceedings, the individual contemplating disclosure must advise all relevant participants of the pending disclosure and allow a reasonable time period for a Party to contest the disclosure.

The Title IX Coordinator may, within his or her discretion, require the Parties, advisors and/or witnesses to advisors to sign appropriate non-disclosure agreements (in accordance with applicable law).

The College retains the discretion to determine what additional measures, if any, are reasonably appropriate to allow the Parties to respond to and use the evidence at a hearing, while preventing the evidence from being used in an impermissible manner as

long as such measures apply equally to both Parties and do not restrict the ability of a Party to discuss the allegations under investigation or to gather and present relevant evidence. For example, such measures may be used to address sensitive materials such as photographs with nudity.

Nothing in a non-disclosure agreement, or in this Section or any other Section of this Policy, shall restrict the ability of a Party to discuss or communicate about the allegations under investigation (e.g., with a parent, friend, or other source of emotional support), or to gather and present relevant evidence.

B. Access to Records.

Parties may request access to records under this Policy by submitting such request in writing to the Title IX Coordinator. In considering such requests, The Title IX Coordinator shall assess the request in light of FERPA and any other applicable federal and/or state laws. If the request is granted, the Title IX Coordinator may grant the requesting Party the opportunity to review and inspect such records, which may be made available in redacted form. The Title IX Coordinator shall respond to requests for access to records within 25 days.

C. Interpretation and Construction.

The headings and subheadings employed herein are provided for ease of reference only, and shall not be construed to limit the rights and responsibilities set forth in this Policy. In all cases, this Policy shall be interpreted consistent with the spirit and purpose of Title IX.

D. Timeframes and Deadlines.

The timeframes prescribed under this Policy may be subjected to limited extension of time frames for good cause upon written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a Party, a Party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities. Decisions relating to extensions and delays shall be made by the Title IX Coordinator.

When any deadline or prescribed time period under this Policy falls on a Saturday, Sunday or holiday recognized by the College, the deadline or prescribed time period shall be extended to the next business day.

