

LAFAYETTE COLLEGE
TITLE IX POLICY AND PROCEDURE (Hereinafter, “the Policy”)

1. Purpose

Lafayette College (“Lafayette” or the “College”) is committed to providing an educational and employment environment that is free from sex discrimination, sex-based harassment, and retaliation for engaging in protected activity.

The College values and upholds the equal dignity of all members of its community and strives to balance the rights of the Parties in the resolution process during what is often a difficult time for all involved.

To ensure compliance with federal, state, and local sex discrimination laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the education program or activity, the College has developed policies and procedures that provide for prompt, fair, and impartial resolution of allegations of sex discrimination, sex-based harassment, or retaliation.

2. Notice of Nondiscrimination

The College seeks to comply with all federal, state, and local laws, regulations, and ordinances prohibiting sex discrimination in private post-secondary education institutions.

The College does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of actual or perceived sex.

This Policy covers sex discrimination in both employment and access to educational opportunities. Therefore, any member of the Lafayette community whose acts deny, deprive, unreasonably interfere with or limit the education or employment, residential and/or social access, benefits, and/or opportunities of any member of the Lafayette community, guest, or visitor on the basis of that person’s actual or perceived sex is in violation of this Policy.

The College will promptly and effectively address any such discrimination of which it has Knowledge/Notice using the resolution process in the Sex Discrimination, Sex-Based Harassment, and Retaliation Procedures.

3. Title IX Team Contacts

The College has appointed the Title IX Team, comprised of the following individuals, to coordinate the College’s compliance with federal, state, and local sex discrimination laws and ordinances:

For sex discrimination, sex-based harassment, and retaliation allegations:

Amanda Hanincik

Director of Educational Equity and Title IX Coordinator

Student Life

Lafayette College

104 Feather House

(610) 330-5338

hanincia@lafayette.edu

<https://sash.lafayette.edu/>

Lisa Gabel

Dean of Natural Sciences, Professor, William C. '67 and Pamela Rappolt Scholar in Neuroscience, and Chair, Program in Neuroscience/Deputy Title IX Coordinator

Lafayette College

315 Oechsle Hall

Easton, PA 18042

(610) 330-5296

gabell@lafayette.edu

Lisa Rex

Director of Human Resources/Employment & Deputy Title IX Coordinator

Office of Human Resources

Lafayette College

12 Markle Hall

Easton, PA 18042

(610) 330-5814

rexl@lafayette.edu

Terrence Haynes

Associate Director of Residence Life & Deputy Title IX Coordinator

Office of Residence Life

Lafayette College

132 Farinon Center

Easton, PA 18042

(610) 330-5335

haynest@lafayette.edu

Collectively, these individuals are responsible for providing comprehensive sex discrimination education and training; coordinating the College's timely, thorough, and fair response, investigation, and resolution of all alleged prohibited conduct under this Policy; and monitoring the effectiveness of this Policy and related procedures to ensure an education and employment environment free from sex discrimination, sex-based harassment, and retaliation.

The College recognizes that allegations under this Policy may include multiple forms of sex discrimination and sex-based harassment, as well as violations of other College policies; may involve various combinations of students, employees, and other members of the College community; and may require the simultaneous attention of multiple College departments. Accordingly, all College departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable College policies, to provide uniform, consistent, efficient, and effective responses to alleged sex discrimination, sex-based harassment, or retaliation.

4. External Contact Information

Concerns about the College's application of this Policy and compliance with Title IX of the Education Amendments of 1972 may also be addressed to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline: (800) 421-3481
Facsimile: (202) 453-6012
TDD: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Office for Civil Rights (OCR), Philadelphia Office
U.S. Department of Education
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Telephone: (215) 656-8541
Fax: (215) 656-8605
OCR.Philadelphia@ed.gov

U.S. Equal Employment Opportunity Commission
Telephone: (800) 669-4000
Telephone TTY for Deaf/Hard of Hearing callers only: (800) 669-6820
ASL Video Phone for Deaf/Hard of Hearing callers only: (844) 234-5122
govinfo@eeoc.gov

Pennsylvania Human Relations Commission
333 Market St 8th Floor, Harrisburg, PA 17101
Telephone: (717) 787-9780
<https://www.phrc.pa.gov/File-a-Complaint/Pages/default.aspx>

5. Mandated Reporting and Confidential Employees

Lafayette College has designated all employees— including **faculty, visiting faculty, full and part-time administrators, and staff**—as Mandated Reporters. The only exceptions are Confidential Employees, as defined below, and most student employees. Resident Advisers are the only student employees designated as Mandated Reporters. Mandated Reporters are expected to promptly report all known details of actual or suspected sex discrimination, sex-based harassment, retaliation, and/or Other Prohibited Conduct to appropriate officials immediately, although there are some limited exceptions. Supportive measures may be offered as the result of such disclosures without formal Lafayette College action.

Complainants may want to carefully consider whether they share personally identifiable details with Mandated Reporters, as those details must be shared with the Title IX Team.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or Policy violations, and these employees will immediately pass Notice to the Title IX Team (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

The following sections describe the College’s reporting options for a Complainant or third party (including parents/guardians when appropriate):

A. Confidential Employees

There are three categories of Confidential Employees: 1) those with confidentiality bestowed by law or professional ethics, such as lawyers, medical professionals, clergy, and mental health counselors; 2) those whom the College has specifically designated as Confidential Resources for purposes of providing support and resources to the Complainant; and 3) those conducting human subjects research as part of a study approved by the College’s Institutional Review Board (IRB). For those in category 1), above, to be able to respect confidentiality, they must be in a confidential relationship with the person reporting, such that they are within the scope of their licensure, professional ethics, or confidential role at the time of receiving the Notice. These individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor, elder, or individual with a disability, or when required to disclose by law or court order.

To enable Complainants to access support and resources without filing a Complaint, the College has designated specific employees as Confidential Resources. Those designated by the College as Confidential Resources are not required to report actual or suspected sex discrimination, sex-based harassment, or retaliation in a way that identifies the Parties. They will, however, provide the Complainant with the Title IX Coordinator’s contact information and offer options and resources without any obligation to inform an

outside agency or College official unless a Complainant has requested the information be shared.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with the following Confidential Employees:

Confidential Employees

The Counseling Center

Bailey Health Center, 2nd Floor

607 High St.

Easton, PA 18042

(610) 330-5005

After hours crisis telephone support available.

Drop-in Consultation Clinic during the academic year:

Monday – Friday, 10:00 am – 11:30 am and 1:00 pm – 3:30 pm

College Chaplain

Rev. Alex Hendrickson

107 Farinon Center

Easton, PA 18042

(610) 330-5959

hendrica@lafayette.edu

Available during regular business hours. Call to schedule an appointment.

Designated Confidential Resources

Bailey Health Center (Medical)

607 High St.

(S.W. Corner of High & McCartney Sts.)

Easton, PA 18042

(610) 330-5001

Director of Student Advocacy and Prevention

Karmen Brown

108 Feather House

Easton, PA 18042

610-330-3331

brownkm@lafayette.edu

Available during regular business hours. Appointments are encouraged.

Additional Resources

The College's website for Sexual Violence Prevention, Education, and Response (<https://sash.lafayette.edu/>) provides the most comprehensive and current list of available on- and off-campus resources and support services for Complainants and Respondents.

Campus counselors (and/or the [Employee Assistance Program](#)) are available to help free of charge and may be consulted on an emergency basis during normal business hours. For students, after-hours and weekend telephone crisis support is also available.

Failure of a Mandated Reporter, as described above in this section, to report an incident of sex discrimination, sex-based harassment, or retaliation of which they become aware is a violation of College Policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations when a harasser is a Mandated Reporter. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under this Policy.

A Mandated Reporter who is themselves a target of discrimination, harassment or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

In addition, Complainants may speak with individuals unaffiliated with the College (such as those listed below) without concern that Policy will require them to disclose information to the College without permission:

- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

6. Scope

This Policy is only applicable to alleged incidents that occur on or after August 1, 2024. For alleged incidents of sex discrimination or sexual harassment occurring prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply. Applicable versions of those policies and procedures are available from the Director of Educational Equity and at <https://sash.lafayette.edu/get-informed/policies-laws/>.

This Policy applies to all faculty, employees, students, and other individuals participating in or attempting to participate in the College's program or activities, including education and employment.

This Policy prohibits all forms of sex discrimination, and may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with this Policy.

7. Jurisdiction

This Policy applies to the College's education programs and activities (defined as including locations, events, or circumstances in which the College exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where the College has disciplinary authority, and to misconduct occurring within any building owned or controlled by a College-recognized student organization. At the discretion of the Director of Educational Equity, a Complainant does not have to be a member of the College community to file a Complaint.

This Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to the College's education programs or activities. The College may also extend jurisdiction to off-campus and/or to online conduct when the conduct affects a substantial College interest.

A substantial College interest includes:

- 1) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
- 2) Any situation in which it is determined that the Respondent poses an imminent and serious threat to the health or safety of any student, employee, or other individual.
- 3) Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
- 4) Any situation that substantially interferes with the College's educational interests or mission.

For disciplinary action to be issued under this Policy, the Respondent must be a College faculty member, student, or employee at the time of the alleged incident. In cases in which the Respondent is not a College faculty member, student, or employee, the College will determine an appropriate sanction within the scope of the College's authority. If the Respondent is unknown or is not a member of the College community, the Director of Educational Equity will offer to assist the Complainant in identifying appropriate institutional and local resources and support options, and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). The College can also assist in contacting local or institutional law enforcement if the individual would like to file a police report about criminal conduct.

All vendors serving Lafayette College through third-party contracts are subject to the policies and procedures of their employers and/or to the College policies and procedures to which their employer has agreed to be bound by their contract(s).

When a Party is participating in a dual enrollment or early college program, the College will coordinate with the Party's home institution to determine jurisdiction and coordinate providing supportive measures and responding to the Complaint under the appropriate policy and procedures based on the allegations and identities of the Parties.

When the Respondent is enrolled in or employed by another institution, the Director of Educational Equity can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Director of Educational Equity may be able to assist and support a student or employee Complainant who experiences sex discrimination or sex-based harassment in an externship, study abroad program, or other environment external to the College where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be addressed remedially by the Director of Educational Equity if brought to their attention.

8. Supportive Measures

The College will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged sex discrimination, sex-based harassment, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to the College's education program or activity, including measures designed to protect the safety of all Parties and/or the College's educational environment and/or to deter sex discrimination, sex-based harassment, and/or retaliation.

The Director of Educational Equity promptly makes supportive measures available to the Parties upon receiving Notice/Knowledge or a Complaint. At the time that supportive measures are offered, if a Complaint has not been filed, the College will inform the Complainant, in writing, that they may file a Complaint with the College either at that time or in the future. The Director of Educational Equity will work with a Party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

The College will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the College's ability to provide those supportive measures. The College will act to ensure as minimal an academic/occupational impact on the Parties as possible. The College will implement measures in a way that does not unreasonably burden any party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the [Employee Assistance Program](#)

- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignments, and assistance navigating off-campus housing concerns
- Altering work arrangements for employees or student-employees
- Implementing contact restrictions (no contact orders) between the Parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Class schedule modifications, withdrawals, or leaves of absence
- Safety planning, such as providing campus safety escorts, other transportation accommodations, and/or increased security and monitoring of certain areas of the campus
- Assistance with No Trespass Letters, or referral to resources which can assist in obtaining a protective order under Pennsylvania law
- [Timely warnings](#)
- Any other actions deemed appropriate by the Director of Educational Equity/Title IX Coordinator

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing Complaint under this Policy.

The Parties are provided with a timely opportunity to seek modification or reversal of the College's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Director of Educational Equity. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the Title IX regulatory definition of supportive measures. The College will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances materially change. The College typically renders decisions on supportive measures within seven (7) business days of receiving a request and provides a written determination to the impacted Party(ies) and the Director of Educational Equity.

9. Online Harassment and Misconduct

College policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the College's education program and activities, or when they involve the use of College networks, technology, or equipment.

Although the College may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to the College, it will engage in a variety of means to address and mitigate the effects.

10. Inclusion Related to Gender Identity/Expression

The College strives to ensure that all individuals are safe, included, and respected in their education and employment environments, regardless of their gender identity or expression, including intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse students and employees.

Discrimination and harassment on the basis of gender identity or expression are not tolerated by the College. If a member of the College community believes they have been subjected to discrimination under this Policy, they should follow the appropriate reporting process described herein.

In upholding the principles of equity and inclusion, the College supports the full integration and healthy development of those who are gender diverse and seeks to eliminate any stigma related to gender identity and expression.

The College is committed to fostering a climate where all identities are valued, contributing to a more vibrant and diverse community. The College will administratively address issues that some students and employees, including those identifying as intersex, transgender, agender, nonbinary, and gender diverse, may confront as they navigate systems originally designed around the assumption that gender is binary. As our society's understanding of gender evolves, so do the College's processes and policies.

This Policy should be interpreted consistent with the goals of maximizing the inclusion of intersex, transgender, transitioning, agender, nonbinary, and gender-diverse students and employees, including:

- Maintaining the privacy of all individuals consistent with law
- Ensuring all students have equal access to educational programming, activities, and facilities, including restrooms and locker rooms
- Ensuring all employees have equal access to employment opportunities and work, service, or health-related facilities
- Providing professional development for employees and education for students on topics related to gender inclusion
- Encouraging all students and employees to respect the pronoun usage and identities of all members of the Lafayette College community

The College uses a number of interventions to address concerns that are raised related to gender-based harassment or discrimination, including problem-solving, intervention,

confrontation, investigation, and Policy enforcement. When conflicts arise between the right of members of the community to be free from gender-identity discrimination and those exercising their right to religious freedom, the College will try to balance rights and interests to find mutually agreeable outcomes or compromises. When that is not possible, the College will offer remedial solutions or enforce its Policies while also respecting the rights of all members of its community.

11. Prohibited Conduct

Students and employees are entitled to an educational and employment environment that is free of sex discrimination, sex-based harassment, and retaliation. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited sex discrimination, sex-based harassment, and retaliation that are also prohibited under College Policy. When speech or conduct is protected by academic freedom, it will not be considered a violation of College Policy, though supportive measures will be offered to those impacted.

All offense definitions below encompass actual and/or attempted offenses.

Any of the following offenses can be charged as or combined as pattern offenses, in which case the Notice of Investigation and Allegation (NOIA) will clearly indicate that both individual incidents and a pattern of conduct are being investigated. A pattern may exist and be charged when there is a potential substantial similarity to incidents where the proof of one could make it more likely that the other(s) occurred, and vice versa. Patterns may exist based on target selection, similarity of offense, or other factors. Where a pattern is found, it can be the basis to enhance sanctions, accordingly.

A. Sex Discrimination

Sex discrimination is different treatment with respect to a person's employment or participation in an education program or activity based, in whole or in part, upon the person's actual or perceived sex.

Discrimination can take two primary forms:

1) Disparate Treatment Discrimination:

- Any intentional differential treatment of a person or persons that is based on a person's actual or perceived sex and that:
 - Excludes a person from participation in;
 - Denies a person benefits of; or

- Otherwise adversely affects a term or condition of a person’s participation in a College program or activity.

2) Disparate Impact Discrimination:

- Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on the basis of sex that:
 - Excludes a person from participation in;
 - Denies a person benefits of; or
 - Otherwise adversely affects a term or condition of a person’s participation in a College program or activity.

B. Sex-based Harassment

Sex-based Harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex,¹ including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking.

1) Quid Pro Quo:

- an employee agent, or other person authorized by the College,
- to provide an aid, benefit, or service under the College’s education program or activity,
- explicitly or impliedly conditioning the provision of such aid, benefit, or service,
- on a person’s participation in unwelcome sexual conduct.

2) Hostile Environment Harassment:

- unwelcome sex-based conduct, that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person’s ability to participate in or benefit from the College’s education program or activity

The College reserves the right to address offensive conduct and/or harassment that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not prohibited by law. Addressing such conduct may result in the imposition of discipline under College Policy or may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other Informal Resolution mechanisms.

¹ Throughout this Policy, “on the basis of sex” means conduct that is sexual in nature, or that is directed to the Complainant because of his/her/their actual or perceived sex or gender identity.

For assistance with Alternative Resolution and other Informal Resolution techniques and approaches, contact the Director of Educational Equity.

3) Sexual Assault:²

a. Rape:

- Penetration, no matter how slight,
- of the vagina or anus,
- with any body part or object, or
- oral penetration by a sex organ of another person,
- without the consent of the Complainant.

b. Fondling:

- The touching of the private body parts of the Complainant (e.g., buttocks, groin, breasts),
- for the purpose of sexual gratification,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental incapacity.

c. Incest:

- Sexual intercourse,
- between persons who are related to each other,
- within the degrees wherein marriage is prohibited by Pennsylvania state law.

d. Statutory Rape:

- Sexual intercourse,
- with a person who is under the statutory age of consent of 16 years of age in the Commonwealth of Pennsylvania.

4) Dating Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of

² This would include having another person touch you sexually, forcibly, and/or without their consent.

interaction between the persons involved in the relationship. For the purposes of this definition—

- a) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- b) Dating violence does not include acts covered under the definition of domestic violence.

5) Domestic Violence,³ defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Pennsylvania, or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.

6) Stalking, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at the Complainant, that
 - i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. Suffer substantial emotional distress.

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

³ To categorize an incident as Domestic Violence under this Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

C. Sexual Misconduct

1) Sexual Exploitation:⁴

- a person taking non-consensual or abusive sexual advantage of another, that does not constitute Sex-based Harassment as defined above,
- for their own benefit or for the benefit of anyone other than the person being exploited.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) a person's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking

⁴ This offense is not classified under Title IX as "Sex-based Harassment," but it is included here in this Policy as a tool to address a wider range of behaviors.

- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes)

D. Other Sex-Based Prohibited Conduct⁵

1) Bullying:

- repeated and/or severe aggressive behavior
- that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant,
- that is not speech or conduct that is otherwise protected by applicable law.

2) Endangerment:

- threatening or causing physical harm;
- extreme verbal, emotional, or psychological abuse; or
- other conduct which threatens or endangers the health or safety of any person or damages their property.

3) Hazing:

- any act or action
- which does or is likely to endanger the mental or physical health or safety of any person
- as it relates to a person's initiation, admission into, or affiliation with any College group or organization.

For the purposes of this definition:

- It is not necessary that a person's initiation or continued membership is contingent upon participation in the activity, or that the activity was sanctioned or approved by the student group or student organization, for an allegation of hazing to be upheld.
- It shall not constitute an excuse or defense to a hazing allegation that the participants took part voluntarily, gave consent to the conduct, voluntarily assumed the risks or hardship of the activity, or that no injury was suffered or sustained.

⁵ For Bullying, Endangerment, and Hazing, these offenses can be applied when the conduct is on the basis of sex but is not a form of Sex-based Harassment.

- The actions of alumni, active, new, and/or prospective members of a student group or student organization may be considered hazing.
- Hazing is not confined to the student group or student organization with which the person subjected to the hazing is associated.

4) Retaliation:

- Adverse action, including intimidation, threats, coercion, or discrimination,
- against any person,
- by the College, a student, employee, or a person authorized by the College to provide aid, benefit, or service under the College’s education program or activity,
- for the purpose of interfering with any right or privilege secured by law or Policy, or
- because the person has engaged in protected activity, including reporting information, making a Complaint, testifying, assisting, or participating or refusing to participate in any manner in an investigation or Resolution Process under the Policy or Procedures, including an Informal Resolution process, or in any other appropriate steps taken by the College to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects.

The exercise of rights protected under applicable law often does not constitute retaliation. It is also not retaliation for the College to pursue Policy violations against those who make materially false statements in bad faith in the course of a resolution under the Policy. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

5) Unauthorized Disclosure:⁶

- Distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process except as required by law or as expressly permitted by the College; or
- publicly disclosing institutional work product that contains personally identifiable information without authorization or consent.

6) Failure to Comply/Process Interference

- Intentional failure to comply with the reasonable directives of the Director of Educational Equity in the performance of their official duties, including with the terms of a no contact order

⁶ Nothing in this section restricts the ability of the Parties to: obtain and present evidence, including by speaking to witnesses (as long as it does not constitute retaliation under this Policy), consult with their family members, confidential resources, or Advisers; or otherwise prepare for or participate in the Resolution Process.

- Intentional failure to comply with emergency removal or interim suspension terms
- Intentional failure to comply with sanctions
- Intentional failure to adhere to the terms of an Informal Resolution agreement
- Intentional failure to comply with mandated reporting duties as defined in this Policy
- Intentional interference with the Resolution Process, including, but not limited to:
 - Destruction of or concealing of evidence
 - Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence
 - Intimidating or bribing a witness or party

E. Sanction Ranges

The following sanction ranges apply to students and employees for Prohibited Conduct under this Policy. Sanctions can be assigned outside of the specified ranges based on aggravating or mitigating circumstances, or the Respondent's cumulative conduct record.

- **Sex Discrimination:** warning through expulsion or termination.
- **Quid Pro Quo Harassment:** warning through expulsion or termination.
- **Hostile Environment Harassment:** warning through expulsion or termination.
- **Rape:** suspension through expulsion or termination.
- **Fondling:** warning through suspension (termination for employees).
- **Incest:** warning through probation.
- **Statutory Rape:** warning through suspension (termination for employees).
- **Stalking:** probation through expulsion or termination.
- **Dating/Domestic Violence:** probation through expulsion or termination.
- **Sexual Exploitation:** warning through expulsion or termination.
- **Bullying:** warning through expulsion or termination.
- **Endangerment:** warning through expulsion or termination.
- **Hazing:** warning through expulsion or termination.
- **Retaliation:** warning through expulsion or termination.
- **Unauthorized Disclosure:** warning through expulsion or termination.
- **Failure to Comply/Process Interference:** warning through expulsion or termination.

In cases in which the Respondent is not a College faculty member, student, or employee, the College will determine an appropriate sanction within the scope of the College's authority.

F. Consent, Force, and Incapacitation

As used in this Policy, the following definitions and understandings apply:

1) Consent

Consent is defined as:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.⁷

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent is evaluated from the perspective of what a reasonable person would conclude are mutually understandable words or actions. Reasonable reciprocation can establish consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to be kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, sexual activity should cease within a reasonably immediate time.

Silence or the absence of resistance alone should not be interpreted as consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

⁷ The state definition of consent applicable to criminal prosecutions for sex offenses in Pennsylvania is: knowingly and voluntarily agreeing to engage in specific sexual activity with another so long as the consent is not the result of forcible compulsion, threat of forcible compulsion that would prevent resistance by a person of reasonable resolution, by a person who is unconscious or where the person knows that the person with whom consent is to be given is unaware that the sexual activity is occurring, where the person is incapacitated due to mental disease, age (under the age of 16), or due to the impairment of drugs or alcohol given with the individual's knowledge. This definition may differ from the definition used by the College to address Policy violations.

Consent to some sexual contact (such as kissing or fondling) cannot be assumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected. If a sexual partner shares the clear expectation for the use of a condom, or to avoid internal ejaculation, and those expectations are not honored, the failure to use a condom, removing a condom, or internal ejaculation can be considered acts of sexual assault.

Proof of consent or non-consent is not a burden placed on either party involved in a Complaint. Instead, the burden remains on the College to determine whether its Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Going beyond the boundaries of consent is prohibited. Thus, unless a sexual partner has consented to slapping, hitting, hair pulling, strangulation, or other physical roughness during otherwise consensual sex, those acts may constitute dating violence or sexual assault.

2) Force

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent.

Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”).

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person’s consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

3) Incapacitation

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

Incapacitation is determined through consideration of all relevant indicators of a person’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of this Policy. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

G. Unethical Relationships [\(See Appendix D\)](#)

12. Standard of Proof

The College uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that the College will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent is in violation of the alleged Policy violation(s).

13. Reports/Complaints of Sex Discrimination, Sex-Based Harassment, and/or Retaliation

A Report provides notice to the College of an allegation or concern about sex discrimination, sex-based harassment, or retaliation and provides an opportunity for the Director of Educational Equity to provide information, resources, and supportive measures. A Complaint provides notice to the College that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide at a later time to make a Complaint. Reports or Complaints of sex discrimination, sex-based harassment, and/or retaliation may be made using any of the following options:

- 1) File a Complaint with, or give verbal Notice directly to, the Director of Educational Equity or to any member of the Title IX Team. Such a Complaint may be made at any

time (including during non-business hours) by using the telephone number, email address, or by mail to the office of the Director of Educational Equity or any other Title IX Team member listed in this Policy.

- 2) Submit online Notice using the universal reporting tool at <http://onepard.lafayette.edu/>. The online reporting tool is only monitored during regular business hours and should not be used in emergencies or situations where an immediate response is required. In such situations call Public Safety at (610) 330-4444 (emergency), or (610) 330-5330 (non-emergency).

Anonymous Notice is accepted. Anonymous Notice may limit the College's ability to investigate, respond, and provide remedies, depending on what information is shared. Measures intended to protect the community or redress or mitigate harm may be enacted. It also may not be possible to provide supportive measures to Complainants who are the subject of anonymous Notice.

- 3) Report using the toll-free [Anonymous Tip Hotline](tel:1-800-539-6085) (1-800-539-6085).
- 4) Reports may also be made to law enforcement (the Department of Public Safety and Easton Police Department are available 24 hours a day to receive reports): Call Public Safety at (610) 330-4444 (emergency), or (610) 330-5330 (non-emergency). Call the Easton Police Department at (610) 759-2200 (main number), or 911 (emergency).

Reporting carries no obligation to initiate a Complaint, and in most situations, the College is able to respect a Complainant's request to not initiate a resolution process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where the College may need to initiate a resolution process. If a Complainant does not wish to file a Complaint, the College will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of confidentiality by giving Notice that allows the College to discuss and/or provide supportive measures, in most circumstances.

An individual may pursue some or all of these options at the same time (e.g., one may simultaneously pursue a Sex-based Harassment report under this Policy and a criminal complaint).

14. Time Limits on Reporting

There is no time limitation on providing Notice/Complaints to the Director of Educational Equity. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be limited or impossible.

Acting on Notice/Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the Director of Educational Equity's discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

15. False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process can be subject to discipline under appropriate College policies.

16. Confidentiality/Privacy

The College makes every effort to preserve the Parties' privacy. The College will not share the identity of any individual who has made a Complaint of sex discrimination, sex-based harassment, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of sex discrimination, sex-based harassment, or retaliation; any Respondent; or any witness, except as permitted by, to fulfill the purposes of, or to comply with applicable laws and regulations (e.g., Title IX). Additional information regarding confidentiality and privacy can be found in [Appendix C](#).

Unauthorized Disclosure of Information

Parties and Advisers are prohibited from disclosing information obtained by the College through the Resolution Process, to the extent that information is the work product of the College (meaning it has been produced, compiled, or written by the College for purposes of its investigation and resolution of a Complaint), without authorization. It is also a violation of College Policy to publicly disclose institutional work product that contains a party or witness's personally identifiable information without authorization or consent. Violation of this Policy is subject to significant sanctions.

17. Emergency Removal/Interim Actions/Leaves

The College can act to remove a student Respondent accused of sex discrimination, sex-based harassment, or retaliation from its education program or activities, partially or entirely, on an emergency basis when an individualized safety and risk analysis has determined that an imminent and serious threat to the health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator and may be done in conjunction with the Student Support and Intervention Team (for students) or the Threat

Assessment Group (for employees) using its standard objective violence risk assessment procedures. Employees are subject to existing procedures for interim actions and leaves, as they may be amended from time to time.

18. Federal Timely Warning Obligations

The College must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the College community.

The College will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

19. Amnesty

The College encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to give Notice to College officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the College community that Complainants choose to give Notice of misconduct to College officials, that witnesses come forward to share what they know, and that all Parties be forthcoming during the process.

To encourage reporting and participation in the process, the College offers Parties and witnesses amnesty from minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident. Granting amnesty is a discretionary decision made by the College, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

A. Students

The College also maintains an amnesty policy for students in addition to witnesses who offer help to others in need.

B. Employees

Sometimes, employees are hesitant to report sex discrimination, sex-based harassment, or retaliation they have experienced for fear of getting in trouble themselves. The College may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident.

20. Preservation of Evidence

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders, and it is particularly time sensitive. The College will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

Sexual Assault

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or a secure evidence container (if provided one by law enforcement)
- Seeking medical treatment can be essential, even if it is not for the purpose of collecting forensic evidence.

Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
 - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
 - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media correspondence, including notifications related to account access alerts.
- Take time-stamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.
- Save copies of any messages, including those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and the Director of Educational Equity, the importance of taking these actions will be discussed, if timely.

21. Federal Statistical Reporting Obligations

Certain institutional officials (those deemed Campus Security Authorities) have a duty to report the following for federal statistical reporting purposes (Clery Act):

- 1) All “primary crimes,” which include criminal homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- 2) Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- 3) Violence Against Women Act (VAWA-based crimes), which include sexual assault, domestic violence, dating violence, and stalking;⁸ and
- 4) Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations,

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on- or off-campus or in the surrounding area, but no addresses are given) must be shared with Public Safety for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include student life/student conduct staff, campus law enforcement/public safety/security, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, Advisers to student organizations, and any other official with significant responsibility for student and campus activities.

22. Independence and Conflicts of Interest

The Director of Educational Equity manages the Title IX Team and acts with independence and authority, free from bias and conflicts of interest. The Director of Educational Equity oversees all resolutions under this Policy and these procedures. The members of the Resolution Pool are vetted and trained to ensure they are not biased for or against any party in a specific Complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Director of Educational Equity, contact the College’s President, Nicole Hurd. Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Resolution Pool member should be raised with the Director of Educational Equity, Amanda Hanincik.

23. Revision of this Policy

This Policy succeeds previous policies addressing sex discrimination, sex-based harassment, sexual misconduct, and/or retaliation, though previous policies and procedures remain in force for sexual harassment incidents occurring before August 1, 2024. The Director of Educational Equity reviews and updates these policies and procedures regularly. The Director of Educational Equity reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

⁸ 42 U.S.C. Sections 13701 through 14040.

If government laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally.

This Policy is effective August 1, 2024.

RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE TITLE IX POLICY AND PROCEDURE
(Hereinafter the “Resolution Process”)

1. Overview

Lafayette College (the “College”) will act on any Notice, Complaint, or Knowledge of a potential violation of the Title IX Policy and Procedure (“the Policy”) that is received by the Director of Educational Equity or designee, or any other Mandated Reporter by applying the Resolution Process below.

The procedures below apply to all allegations of discrimination on the basis of sex, sex-based harassment, retaliation, or Other Prohibited Conduct involving students, employees, or third parties. For allegations made by or against a third-party, the College will respond properly and equitably, although these procedures may not apply.

The procedures apply to conduct occurring: on College property; in the context of any College-related or sanctioned education program or activity, regardless of the location (including travel, research, or internship programs); through the use of College-owned or provided technology resources; or that otherwise creates a Hostile Environment on campus or in the context of any College-related or sanctioned education program or activity.

Allegations of harassment and discrimination are subject to these procedures, the Student Code of Conduct, and other resolution processes at the discretion of appropriate administrators upon the initial assessment of a report as stated in the Student, Employee and Faculty Handbooks.

The procedures also apply to all other off campus conduct by a Lafayette student, consistent with the Student Code of Conduct.

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing or discriminatory conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this Policy will be addressed through the procedures elaborated in the respective student, faculty, and staff handbooks and/or other applicable College policies and procedures.

2. Notice/Complaint

Upon receipt of Notice, a Complaint, or Knowledge of an alleged Policy violation, the Director of Educational Equity will initiate a prompt initial evaluation to determine the College’s next steps. The Director of Educational Equity will contact the Complainant/source of the Notice to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.

3. Collateral Misconduct

Collateral misconduct is defined to include potential violations of other College policies not incorporated into the Policy that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all allegations. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these procedures. In such circumstances, the Director of Educational Equity may consult with College officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of the Director of Educational Equity. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the student, faculty, and staff handbooks and/or other applicable College policies and procedures.

4. Initial Evaluation

The Director of Educational Equity conducts an initial evaluation, typically within seven (7) business days of receiving Notice/Complaint/Knowledge of alleged misconduct. The initial evaluation typically includes:

- Assessing whether the reported conduct may reasonably constitute a violation of the Policy.
 - If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. It may then be referred to another process, if applicable.
- Determining whether the College has jurisdiction over the reported conduct, as defined in the Policy.
 - If the conduct is not within the College's jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct will be referred to the appropriate College office for resolution.
- Offering and coordinating supportive measures for the Complainant.
- Offering and coordinating supportive measures for the Respondent, as applicable.
- Notifying the Complainant, or the person who reported the allegation(s), of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below.
- Determining whether the Complainant wishes to initiate a Complaint.
- Notifying the Respondent of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below, if a Complaint is made.

Helping a Complainant to Understand Resolution Options

If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting intent to make a Complaint), the Director of Educational Equity will help to facilitate the Complaint, which will include working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options:

- a supportive and remedial response, and/or
- Informal Resolution, or
- the Resolution Process described below.

The Director of Educational Equity will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.

If the Complainant elects for the Resolution Process below, and the Director of Educational Equity has determined the Policy applies and that the College has jurisdiction, they will route the matter to the appropriate Resolution Pool member, will provide the Parties with a Notice of Investigation and Allegation(s), and will initiate an investigation consistent with these Procedures.

If any Party indicates (either verbally or in writing) that they want to pursue an Informal Resolution option, the Director of Educational Equity will assess whether the matter is suitable for Informal Resolution and refer the matter accordingly.

If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the Director of Educational Equity), though the Complainant can elect to initiate one later, if desired.

Director of Educational Equity Authority to Initiate a Complaint

If the Complainant does not wish to file a Complaint, the Director of Educational Equity, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures and determine whether to initiate a Complaint themselves. To make this determination, the Director of Educational Equity will evaluate that request to determine if there is a serious and imminent threat to someone's safety or if the College cannot ensure equal access without initiating a Complaint. The Director of Educational Equity will consider the following non-exhaustive factors to determine whether to file a Complaint:

- The Complainant's request not to initiate a Complaint.
- The Complainant's reasonable safety concerns regarding initiating a Complaint.
- The risk that additional acts of sex discrimination would occur if a Complaint is not initiated.

- The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence.
- The age and relationship of the Parties, including whether the Respondent is a College employee.
- The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing discrimination, or discrimination alleged to have impacted multiple individuals.
- The availability of evidence to assist a Decision-maker in determining whether sex discrimination occurred.
- Whether the College could end the alleged sex discrimination and prevent its recurrence without initiating its resolution process.

If deemed necessary, the Director of Educational Equity may consult with appropriate College employees and/or conduct a violence risk assessment to aid their determination whether to initiate a Complaint.

When the Director of Educational Equity initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this Policy.

5. Dismissal

The College **may** dismiss a Complaint if, at any time during the investigation or Resolution Process, one or more of the following grounds are met:

- 1) The College is unable to identify the Respondent after taking reasonable steps to do so
- 2) The College no longer enrolls or employs the Respondent
- 3) A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Director of Educational Equity declines to initiate a Complaint
- 4) The College determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven

In addition to other members of the Title IX Team, as authorized by the Director of Educational Equity, a Decision-maker can recommend dismissal to the Director of Educational Equity if they believe the grounds are met. A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.

Upon any dismissal, the College will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, the College will also notify the Respondent of the dismissal.

This dismissal decision is appealable by any party.

6. Appeal of Dismissal

The Complainant may appeal a dismissal of their Complaint. The Respondent may also appeal the dismissal of the Complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal.

The Director of Educational Equity will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the Complaint, the Director of Educational Equity must then provide the Respondent with a NOIA and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

Throughout the dismissal appeal process, the College will:

- Implement dismissal appeal procedures equally for the Parties.
- Assign a trained Dismissal Appeal Officer who did not take part in an investigation of the allegations or dismissal of the Complaint.
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal.
- Notify the Parties of the result of the appeal and the rationale for the result.

The grounds for dismissal appeals are limited to:

- 1) Procedural irregularity that would change the outcome.
- 2) New evidence that would change the outcome and that was not reasonably available when the dismissal was decided.
- 3) The Director of Educational Equity, Investigator, or Decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

The appeal request should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. Upon receipt of a written dismissal appeal request from one or more Parties, the Director of Educational Equity will share the request with all other Parties and provide three (3) business days for other Parties and the Director to respond to the request. At the conclusion of the response period, the Director of Educational Equity will forward the appeal, as well as any response provided by the other Parties and/or the Director to the Dismissal Appeal Officer for consideration.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the Dismissal Appeal Officer will deny the request, and the Parties, their Advisers, and the Director of Educational Equity will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the Dismissal Appeal Officer will notify all Parties and their Advisers, and the Director of Educational Equity, of their decision and rationale in writing. The effect will be to reinstate the Complaint.

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Officer has seven (7) business days to review and decide on the appeal, though extensions can be granted at the Director of Educational Equity's discretion, and the Parties will be notified of any extension.

Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so.

The Dismissal Appeal Officer may consult with the Director of Educational Equity and/or legal counsel on questions of procedure or rationale for clarification, if needed. The Director of Educational Equity will maintain documentation of all such consultation.

7. Emergency Removal of a Student

The College may emergency remove a student accused of Sex Discrimination or Sex-based Harassment upon receipt of Notice/Knowledge, a Complaint, or at any time during the Resolution Process. Prior to an emergency removal, the College will conduct an individualized risk assessment and may remove the student if that assessment determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies such action.

When an emergency removal is imposed, wholly or partially, the affected student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal within two (2) business days of the notification. Upon receipt of a challenge, the Director of Educational Equity will meet with the student (and their Adviser, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate, should be modified, or lifted. When this meeting is not requested within two (2) business days, objections to the emergency removal will be deemed waived. A student can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed. A Complainant and their Adviser may be permitted to participate in this meeting if the Director of Educational Equity determines it is equitable for them to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting.

When applicable, a Complainant may provide information to the Director of Educational Equity for review.

An emergency removal may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Director of Educational Equity will communicate the final decision in writing, typically within three (3) business days of the review meeting.

8. Placing an Employee on Leave

When the Respondent is an employee, or a student employee accused of misconduct in the course of their employment, existing provisions for interim action are typically applicable instead of the above emergency removal process.

9. Counter-Complaints

The College is obligated to ensure that the Resolution Process is not abused for retaliatory purposes. Although the College permits the filing of counter-complaints, the Director of Educational Equity will use an initial evaluation, described above, to assess whether the allegations in the counter-complaint are made in good faith. When counter-complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a violation of the Policy.

Counter-complaints determined to have been reported in good faith will be processed using the Resolution Process. At the Director of Educational Equity's discretion, investigation of such claims may take place concurrently or after resolution of the underlying initial Complaint.

10. Advisers in the Resolution Process

A. Who Can Serve as an Adviser?

The Parties may each have an Adviser (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews, and hearings within the Resolution Process, including intake. The Parties may select whomever they wish to serve as their Adviser as long as the Adviser is eligible and available.⁹

The Director of Educational Equity will offer to assign a trained Adviser to any Party if the Party chooses. If a Party chooses an Adviser from the pool available from the

⁹ "Available" means the Party cannot insist on an Adviser who simply doesn't have inclination, time, or availability. The Adviser cannot have institutionally conflicting roles, such as being an administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions. Additionally, choosing an Adviser who is also a witness in the process creates potential for bias and conflicts of interest. A Party who chooses an Adviser who is also a witness can anticipate that issues of potential bias will be explored by the Decision-maker(s).

College, the College will have trained the Adviser and familiarized them with the Resolution Process.

The College cannot guarantee equal Advisory rights, meaning that if one Party selects an Adviser who is an attorney, but the other party does not, or cannot afford an attorney, the College is not obligated to provide an attorney to advise that Party.

A Party may elect to change Advisers during the process and is not obligated to use the same Adviser throughout. Parties are expected to provide the Director of Educational Equity with timely notification if they change Advisers. If a Party changes Advisers, consent to share information with the previous Adviser is assumed to be terminated, and a release for the new Adviser must be submitted.

The College may permit Parties to have more than one Adviser, or an Adviser and a support person, upon special request to the Director of Educational Equity. The decision to grant this request is at the Director of Educational Equity's sole discretion and will be granted equitably to all Parties.

Advisers appointed by the College cannot be Confidential Employees, and although they will not be asked to disclose details of their interactions with their advisees to institutional officials or Decision-makers absent an emergency, they are still reminded of their Mandated Reporter responsibilities.

B. Adviser's Role in the Resolution Process

Advisers should help the Parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisers may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.

The Parties are expected to ask and respond to questions on their own behalf throughout the Resolution Process. Although the Adviser generally may not speak on behalf of their advisee, the Adviser may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisers should ask for breaks to allow for private consultation.

C. Records Shared with Advisers

Advisers are entitled to the same opportunity as their advisee to access relevant evidence, and/or the same written investigation report that accurately summarizes this evidence.

Advisers are expected to maintain the confidentiality of the records the College shares with them, per [Section 16](#) of the Policy addressing Confidentiality. Advisers may not

disclose any College work product or evidence the College obtained solely through the Resolution Process for any purpose not explicitly authorized by College.

Accordingly, Advisers will be asked to sign Non-Disclosure Agreements (NDAs). The College may decline to share materials with any Adviser who has not executed the NDA. The College may restrict the role of any Adviser who does not respect the sensitive nature of the process or who fails to abide by the College's confidentiality expectations.

D. Adviser Expectations

The College generally expects an Adviser to adjust their schedule to allow them to attend College meetings/interviews/hearings when planned, but the College may change scheduled meetings/interviews/hearings to accommodate an Adviser's inability to attend, if doing so does not cause an unreasonable delay.

The College may also make reasonable provisions to allow an Adviser who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies.

All Advisers are subject to the same College policies and procedures, whether they are attorneys or not, and whether they are selected by a Party or appointed by the College. Advisers are expected to advise without disrupting proceedings.

E. Adviser Policy Violations

Any Adviser who oversteps their role as defined by the Policy, shares information or evidence in a manner inconsistent with the Policy, refuses to comply with the College's established rules of decorum, or otherwise violates applicable College policies and procedures will be warned. If the Adviser continues to disrupt or otherwise fails to respect the limits of the Adviser role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including the College requiring the Party to use a different Adviser or providing a different College-appointed Adviser. Subsequently, the Director of Educational Equity will determine how to address the Adviser's non-compliance and future role.

11. Resolution Options Overview

This Resolution Process, consisting of Informal Resolution, or Hearing Resolution, is the College's chosen approach to addressing sex discrimination, sex-based harassment, retaliation, and Other Prohibited Conduct under the Policy. The process considers the Parties' preferences but is ultimately determined at the Director of Educational Equity's discretion.

Resolution proceedings are confidential. All individuals present at any time during the Resolution Process are expected to maintain the confidentiality of the proceedings in accordance with College Policy.

A. Informal Resolution

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Director of Educational Equity at any time prior to a final determination, or the Director of Educational Equity may offer the option to the Parties, in writing. The College will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

Before initiation of an Informal Resolution process, the College will provide the Parties with a NOIA that explains:

- The allegations.
- The requirements of the Informal Resolution process.
- That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume the College's Resolution Process.
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will preclude the Parties from initiating or resuming the Resolution Process arising from the same allegations.
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties.
- What information the College will maintain, and whether and how it could disclose such information for use in its Resolution Process.

The College offers four categories of Informal Resolution, as described below. The individual facilitating an Informal Resolution must be trained and cannot be the Investigator, Decision-maker, or Appeal Decision-maker.

It is not necessary to pursue Informal Resolution first in order to pursue a Hearing Resolution Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Hearing Resolution Process.

The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Hearing Process, should Informal Resolution not be successful, unless agreed to by all Parties.

If an investigation is already underway, the Director of Educational Equity has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

Categories of Informal Resolution

(1) Supportive Resolution

The Director of Educational Equity will meet with the Complainant to determine reasonable supportive measures that are designed to restore or preserve the Complainant's access to the College's education program and activity. Such measures can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Director of Educational Equity may also provide reasonable supportive measures for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the Director of Educational Equity does not initiate a Complaint.

(2) Educational Conversation

The Complainant(s) may request that the Director of Educational Equity address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and institutional policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the Informal Resolution for the matter, if it takes place. In light of this conversation, or the Respondent's decision not to attend, the Director of Educational Equity may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of the recurrence of any behaviors that may not align with Policy.

(3) Accepted Responsibility

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Director of Educational Equity will determine whether Informal Resolution is an option.

If Informal Resolution is available, the Director of Educational Equity will determine whether all Parties and the College are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Director of Educational Equity implements the accepted finding that the Respondent violated the Policy,

implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate College officials, as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Resolution Process will either continue or resume.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the discrimination or harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

(4) Alternative Resolution

The College offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the Director of Educational Equity or other appropriate College officials; and other forms of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.

The Director of Educational Equity may consider various factors to assess whether alternative resolution is appropriate, or which form of alternative resolution may be most successful for the Parties, including but not limited to:

- The Parties' amenability to alternative resolution
- Likelihood of potential resolution, considering any power dynamics between the Parties
- The nature and severity of the alleged misconduct
- The Parties' motivation to participate
- Civility of the Parties
- Results of a violence risk assessment/ongoing risk analysis
- Respondent's disciplinary history
- Whether an emergency removal or other interim action is needed
- Skill of the facilitator with the type of Complaint
- Complaint complexity
- Emotional investment/capability of the Parties
- Rationality of the Parties

- Goals of the Parties
- Adequate resources to invest in alternative resolution (e.g., time, staff)

The Director of Educational Equity has the authority to determine whether alternative resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisers, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. The Director of Educational Equity will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the alternative resolution.

The Director of Educational Equity maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). The results of Complaints resolved by alternative resolution are not appealable.

If an Informal Resolution option is not available or selected, the College will initiate or continue an investigation and subsequent Resolution Process to determine whether the Policy has been violated.

B. Hearing Resolution Process (see [Section 22](#) below)

12. Resolution Process Pool

The Resolution Process relies on a pool of College officials and/or external individuals ("the Pool") to carry out the process.¹⁰

A. Pool Member Roles

Members of the Pool are trained annually, and can serve in the following roles, at the discretion of the Director of Educational Equity:

- Appropriate intake of and initial guidance pertaining to Complaints
- Adviser to Parties
- Informal Resolution Facilitator

¹⁰ External, trained third-party neutral professionals may also be used to serve in Pool roles.

- Perform or assist with initial evaluation
- Investigator
- Hearing Facilitator
- Decision-maker for challenges to emergency removal and supportive measures
- Decision-maker
- Appeal of Dismissal Decision-maker
- Appeal Decision-maker

B. Pool Member Appointment

The Director of Educational Equity, in consultation with appropriate College officials as necessary, appoints the Pool, which acts with independence and impartiality. Pool members can rotate amongst the different roles listed above in different Complaints. The College reserves the right to designate permanent roles for individuals in the Pool.

C. Training (see [Appendix F](#) for details of training for Pool Members)

13. Notice of Investigation and Allegations (NOIA)

Prior to an investigation, the Director of Educational Equity will provide the Parties with a detailed written NOIA. The NOIA may be amended as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the appropriate College official for the area/program being investigated.

The NOIA typically includes:

- A meaningful summary of all allegations
- The identity of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- The name(s) of the Investigator(s), along with a process to notify the Director of Educational Equity of any conflict of interest the Investigator(s) may have in advance of the interview process
- A statement that the College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence

- A statement that retaliation is prohibited
- Information about the confidentiality of the process, including that the Parties and their Advisers (if applicable) may not share College work product obtained through the Resolution Process
- A statement that the Parties may have an Adviser of their choice who may accompany them through all steps of the Resolution Process
- A statement informing the Parties that the College's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Details on how a party may request disability accommodations or other support assistance during the Resolution Process
- A link to the College's VAWA Brochure
- An instruction to preserve any evidence that is directly related to the allegations

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address(es) as indicated in official College records, or emailed to the Parties' College-issued email or designated accounts. Once mailed, emailed, and/or received in person, the notification will be presumptively delivered.

14. Resolution Timeline

The College will make a good faith effort to complete the Resolution Process within sixty to ninety (60-90) business days, including any appeals, which the Director of Educational Equity can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on issues such as, but not limited to, the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, language assistance, health conditions, the absence of Parties and/or witnesses, and other factors.

If a Party or witness chooses not to participate in the Resolution Process or is unresponsive, the College reserves the right to continue or end the Resolution Process without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

College action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

15. Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process, including the Director of Educational Equity, Investigator(s), and Decision-maker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Director of Educational Equity will vet the assigned Investigator(s), Decision-maker(s), and Appeal Decision-makers for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest, and the Director of Educational Equity will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Director of Educational Equity, concerns should be raised with the College President.

The Resolution Process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, including evidence that supports that the Respondent engaged or did not engage in a Policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence.

16. Investigator Appointment

Once an investigation is initiated, the Director of Educational Equity appoints an Investigator(s) to conduct it. These Investigators may be members of the Resolution Process Pool, or any other properly trained Investigator, whether internal or external to the College's community.

17. Witness Role and Participation in the Investigation

Employees (not including Complainant and Respondent) are encouraged to cooperate with and participate in the College's investigation and Resolution Process. Student witnesses and witnesses from outside the College community cannot be required to participate but are encouraged to cooperate with College investigations and to share what they know about a Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx), or, in limited circumstances, by telephone. The College will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

18. Interview Recording

It is standard practice for Investigators to create a record of all interviews pertaining to the Resolution Process. The Parties may review copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

All interviews are recorded, and all involved persons should be made aware of the audio and/or video recording. The recording and/or transcript of those meetings will be provided to the Parties for their review, after which the Parties may pose additional questions to each other. Those subsequent meetings or interviews are also recorded and/or transcribed and shared with the Parties.

19. Evidentiary Considerations

The Investigator(s) and the Decision-maker(s) will only consider evidence that is deemed relevant and not otherwise impermissible.

Relevant Evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of Policy.

Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or 2) is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent.

The fact of prior consensual sexual conduct occurred between the Complainant and Respondent does not by itself prove, demonstrate, or imply the Complainant's consent or preclude a determination that sex-based harassment occurred.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

Within the limitations stated above, the investigation and determination can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

20. Respondent Admits Responsibility

At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Decision-maker is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. This would waive the Respondent's right to appeal. If the Respondent rejects the finding/final determination/sanctions, or does not admit to all conduct charged, the Resolution Process continues to its conclusion. The Complainant retains their right to appeal a determination when a Respondent admits responsibility.

21. Investigation

All investigations are thorough, reliable, impartial, prompt, and fair. They involve interviewing all relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

The College may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

The Investigator(s) typically take(s) the following steps, if not already completed and not necessarily in this order:

- Determine the identity and contact information of the Complainant.
- Identify all offenses implicated by the alleged misconduct and notify the Complainant and Respondent of all specific policies implicated.
- Assist the Director of Educational Equity, if needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy violation.
- Work with the Director of Educational Equity, as necessary, to prepare the initial NOIA. The NOIA may be amended with any additional or dismissed allegations.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses.
- When participation of a Party is expected, provide that Party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose.

- Make good faith efforts to notify each Party of any meeting or interview involving another Party, in advance when possible.
- Interview the Complainant and the Respondent and conduct any necessary follow-up interviews with each.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Provide each interviewed Party and witness an opportunity to review and verify the Investigator's summary notes (or transcript or recording) of the relevant evidence/testimony from their respective interviews and meetings.
- Allow each Party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another Party and/or witnesses. Document which questions were asked with a rationale for any changes or omissions in the investigation report.
- Where possible, complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide the Parties with regular status updates throughout the investigation.
- Prior to the conclusion of the investigation, provide the Parties and their respective Advisers with a list of witnesses whose information will be used to render a finding.
- Ask the Parties to provide a list of questions they would like asked of the other Party or any witnesses. The Investigator will ask those questions deemed relevant, and for any question deemed not relevant, will provide a rationale for not asking the question.
- Write a draft investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and Party and witness interviews, and provides all relevant evidence.
- Provide the Parties and their respective Advisers an electronic copy of the draft investigation report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of ten (10) business days so that each Party may meaningfully respond to the evidence. The Parties may elect to waive all or part of the review period.
- The Investigator may share the investigation report with the Director of Educational Equity and/or legal counsel for their review and feedback.

22. Hearing Resolution Process

The Hearing Resolution Process is used for all Complaints of sex discrimination, sex-based harassment, retaliation, and Other Prohibited Conduct (as defined in Policy) or when Informal Resolution is either not elected or is unsuccessful.

The Hearing Resolution Process consists of a hand-off of the investigation report and all relevant evidence to the Decision-makers who will facilitate a live hearing and will make a finding and determine sanctions (if applicable).

At the discretion of Director of Educational Equity, the assigned Decision-makers will be an individual(s) or a panel drawn from the Resolution Process Pool, or other trained individuals

either internal or external to the College. Once the Decision-makers receive and review the file, they can recommend dismissal to the Director of Educational Equity, if they believe the grounds are met.

The Hearing Resolution Process typically takes approximately thirty (30) business days to complete, beginning with the Decision-makers' receipt of the Draft Investigation Report. The Parties will be regularly updated on the timing and any significant deviation from this typical timeline.

A. Live Hearing Requirements

The following provisions apply to a live hearing:

- **Hearing Venue Options and Recordings.** The live hearing may occur in person or via video technology. The Decision-makers and Parties must be able to simultaneously see and hear a Party or witness while that person is speaking. Alternative arrangements may also be made at the Director of Educational Equity's discretion.
 - All hearings will be recorded, and Parties may request a copy of the recording from the Director of Educational Equity following the live hearing.
 - No unauthorized recordings are permitted.
- **Scheduling.** Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to meet the College's resolution timeline and ensure a prompt resolution. Employees, including Parties and witnesses, who do not have 12-month appointments are still expected to participate in Resolution Processes that occur during months between contracts.
- **Hearing Participants.** Persons who may be present for a hearing include the Decision-makers, hearing facilitator, Investigator(s), the Parties and their Advisers, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Decision-makers. Witnesses are present only during their portion of the testimony.
- **Advisers.** The Parties may have the assistance of an Adviser of their choosing at the hearing or can request that the College appoint a trained Adviser for them. Appointed Advisers are not attorneys. If a Party wishes to have an attorney as their Adviser, they must retain and pay for that attorney themselves.
 - During the pre-hearing meeting and live hearing, Parties may only be accompanied by their Adviser. No other persons (e.g., additional support persons, Advisers, friends, family) may accompany, attend, or listen in on the pre-hearing meeting or live hearing unless explicitly authorized by the Director of Educational Equity, with each Party being provided the same opportunity.
 - Parties and Advisers are permitted to have their phones and a laptop or tablet, but these should only be used during the hearing in a matter consistent with Policy.

- During the hearing, all questions that a Party wishes to ask must be posed by the Adviser, not the Parties.
- If the Party does not have an Adviser, the Director of Educational Equity will provide the Party with an Adviser for the purpose of Adviser-conducted questioning.
- **Impact Statements.** Each Party may submit an impact and/or mitigation statement to the Director of Educational Equity that the Decision-makers will review during any sanction determination.
 - Upon receipt of an impact and/or mitigation statement, the Director of Educational Equity will review the impact/mitigation statement to determine whether any immediate needs exist.
 - The Director of Educational Equity will only provide the impact statements to the Decision-makers if the Decision-makers determine that the Policy has been violated. When the Director of Educational Equity shares the impact statements with the Decision-makers, they will also be shared with the Parties.
- **Disability Accommodations and Other Assistance.** Parties should contact the Director of Educational Equity at least five (5) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.
- **Conflicts of Interest or Bias.** The Decision-makers must not have a bias for or against complainants or respondents generally or the individual Complainant or Respondent in particular.
 - The Decision-makers must recuse themselves if such bias or conflict of interest exists.
 - If the Decision-makers believe there is possible conflict of interest or bias, they will consult with the Director of Educational Equity about possible recusal or removal.
 - The Parties may raise challenges that a Decision-maker is biased or has a conflict of interest. The Parties must raise challenges with the Director of Educational Equity no later than two (2) business days after receiving the hearing notice.
 - The Director of Educational Equity will only remove and replace a Decision-maker in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.
 - If a Decision-maker recuses themselves as the result of a conflict of interest or bias, or is removed, the Director of Educational Equity will promptly appoint a new Decision-maker who does not have a conflict of interest or bias and notify the Parties accordingly.
- **Evidence Provided to Decision-makers and Parties.**
 - The Decision-makers will be provided electronic copies of the Final Investigation Report and all relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisers, at least seven (7) business days in advance of the hearing.

- The Parties will be provided with electronic copies of all the materials provided to the Decision-makers as part of the hearing notice, unless those materials have already been provided.

B. Hearing Notice

The Director of Educational Equity will send the Parties a notice of hearing with sufficient time for the Parties to prepare for the hearing, typically at least seven (7) business days prior to the hearing. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The hearing notice includes:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.
- A description of any technology that will be used to facilitate the hearing, if any.
- Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the Parties and witnesses participating in the hearing, the identity of the Decision-makers, details related to questioning, the role of Advisers, impact/mitigation statements, and how to request disability accommodations or other assistance.

C. Witness Participation

Student and employee witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. Witnesses may participate in-person or via video technology that allows the Decision-makers and the Parties to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an Adviser without the Director of Educational Equity's express permission. At the discretion of the Decision-makers, a witness may join by phone if no other reasonable alternative is available.

The Director of Educational Equity will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony.

If any Party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Director of Educational Equity may reschedule the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless:

- All Parties and the Decision-makers assent to the new witness’s participation in the hearing without remanding the complaint back to the Investigators, and
- The Decision-makers deem the evidence presented by the new witness to be relevant, not impermissible, and not information already established in the record, and
- The witness’s late involvement was not the result of bad faith by the witness, the Parties, or others.

If the above criteria are not met, but the witness’s evidence is deemed relevant, not impermissible, and not duplicative, the Decision-makers may, at their discretion, engage in any of the following actions:

- Delay the hearing.
- Provide the Parties with at least five (5) business days to review the relevant portions of the new witness’s statements, if such statements are submitted.
- Remand the Complaint back to the Investigators for further investigation or verification.
- Allow the Parties to review and comment on the testimony of the new witness.

If the evidence is deemed not relevant or impermissible, the Decision-makers may proceed with the hearing absent the new witness’s participation.

D. Pre-Hearing Meetings

The Parties and/or their Advisers may request a pre-hearing meeting with the Chair¹¹ or hearing administrator to review the hearing procedures. Pre-hearing meeting(s) will not be recorded.

E. Hearing Procedures

1. Evidentiary Considerations

The Parties must provide all evidence to the Investigators prior to completing the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-makers for relevance. If deemed relevant and not impermissible, the Parties and Decision-makers must agree to admit it into the record. If the evidence is deemed not relevant or impermissible, the Decision-makers may proceed with the hearing absent the new evidence.

The new relevant evidence will be admitted to the record if:

- All Parties and the Decision-makers assent to the new evidence being included in the hearing without remanding the Complaint back to the Investigators,
- The evidence is not duplicative of evidence already in the record,

¹¹ The Chair is the Decision-maker designated by the Director of Educational Equity to administer the hearing process.

- It is not impermissible, and
- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Decision-makers may, at their discretion, engage in any of the following actions:

- Delay the hearing.
- Provide the Parties with at least five (5) business days to review the relevant evidence.
- Remand the Complaint back to the Investigators for further investigation or analysis.
- Allow the Parties to review and comment on the new evidence.

If the evidence is deemed not relevant or impermissible, the Decision-makers may proceed with the hearing without allowing the new evidence.

2. Collateral Misconduct

The Decision-makers have the authority to hear and make determinations on all allegations of sex discrimination, sex-based harassment, retaliation, and Other Prohibited Conduct under the Policy and may also hear and make determinations on any additional alleged collateral misconduct that occurred in concert with the sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct, even though those collateral allegations may not specifically fall within the Policy.

3. Joint Hearings

In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Director of Educational Equity may permit the investigation and/or hearings pertinent to each Respondent or Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Complaint with respect to each alleged Policy violation.

4. Introductions and Hearing Procedure Explanation

The Chair will explain the hearing procedures and introduce the participants. The Chair will answer any procedural questions prior to and as they arise throughout the hearing.

5. Investigator Presentation of Final Investigation Report

The Investigator(s) will present a summary of the Final Investigation Report, including a review of the facts that are contested and those that are not. The Investigator(s) may be questioned first by the Decision-makers and then by the Parties through their Advisers. The Investigator may attend the duration of the hearing or be excused after their testimony at the Chair's discretion.

6. Testimony and Questioning

The Parties and witnesses may provide relevant information in turn, beginning with the Complainant's opening statement, then the Respondent's, and then questioning in the order determined by the Chair. The Chair will facilitate questioning of the Parties and witnesses first by the Decision-makers and then by the Parties through their Advisers.

Questions that the Parties wish to have posed can be questions for that party themselves, another party, or witnesses.

The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions they deem not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive. The Chair has final say on all questions and determinations of relevance and appropriateness. The Chair may consult with legal counsel on any questions of admissibility.

If the Parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, refer them to the Director of Educational Equity, and/or preserve them for appeal. If bias is not an issue at the hearing, the Chair should not permit irrelevant questions that probe for Investigator bias.

The Chair will allow witnesses who have relevant and not impermissible information to appear at a portion of the hearing to respond to specific questions from the Decision-makers and the Parties, and the witnesses will then be excused.

7. Refusal to Submit to Questioning and Inferences

Any Party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-makers can only rely on the available relevant and not impermissible evidence in making the ultimate

determination of responsibility. The Decision-makers may not draw any inference **solely** from a Party's or witness's absence from the hearing or refusal to answer any or all questions.

An Adviser may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Adviser unless the Party being advised consents to that information being shared.

8. Hearing Recordings

The College records hearings (but not deliberations) for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

The Decision-makers, the Parties, their Advisers, Appeal Decision-makers, and other appropriate College officials will be permitted to review the recording or review a transcript of the recording upon request to the Director of Educational Equity. No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

F. Deliberation and Determination

After closing statements from the Parties, the Decision-makers will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the standard of proof. If a panel is used, a simple majority vote is required to determine the finding. Deliberations are not recorded.

When there is a finding of responsibility for one or more of the allegations, the Decision-makers may then consider any previously submitted impact and/or mitigation statement(s) provided by the Parties in determining appropriate sanction(s). The Director of Educational Equity will ensure that any submitted statements are exchanged between the Parties if they are viewed by the Decision-makers. Impact/mitigation statements do not influence the finding, they only potentially influence the sanctions.

The Chair will then prepare and provide a written statement to the Director of Educational Equity, who will help prepare a written outcome letter detailing all findings and final determinations, the rationale(s) explaining the decision(s), the relevant and not impermissible evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s).

This statement is typically submitted to the Director of Educational Equity within ten (10) business days from the conclusion of the hearing, unless the Director of Educational Equity

grants an extension. The Director of Educational Equity will notify the Parties of any extension.

23. Sanctions

Factors the Decision-makers may consider when determining sanctions and responsive actions include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the sex discrimination, sex-based harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sex discrimination, sex-based harassment, and/or retaliation
- The need to remedy the effects of the sex discrimination, sex-based harassment, and/or retaliation on the Complainant and the community
- The impact on the Parties
- The Respondent's acceptance of responsibility
- Any other information deemed relevant by the Decision-makers

The sanctions will be implemented as soon as they are feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

A. Student Sanctions

The following are the common sanctions that may be imposed upon students singly or in combination:

- *Formal Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Probation:* A written reprimand for violation of College policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any College policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension:* Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from

suspension are automatically placed on probation through the remainder of their tenure as a student at the College. The College will include a transcript notation for the duration of suspension.

- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend College-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript.
- *Withholding Diploma*: The College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: The College reserves the right to revoke a degree previously awarded from the College for fraud, misrepresentation, and/or other violation of College policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including College registration) for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

B. Student Group and Organization Sanctions

The following are the common sanctions that may be imposed upon student groups or organizations singly or in combination:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Probation*: An official sanction for violation of College policy, providing for more severe disciplinary sanctions in the event that the group or organization is found in violation of any College policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of College funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student group or organization recognition and/or institutional support for a defined period of time not to exceed two (2) years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in College-related activities, whether they occur on- or off-campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from the College.
- *Expulsion*: Permanent termination of student group organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.

- *Loss of Privileges*: Restricted from accessing specific College privileges for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

C. Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an employee who has engaged in sex discrimination, sex-based harassment, and/or retaliation may include, but are not limited to:

- *Warning – Verbal or Written*
- *Performance Improvement Plan/Management Process*
- *Enhanced supervision, observation or review*
- *Required training or education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of oversight or supervisory responsibility*
- *Demotion*
- *Transfer*
- *Reassignment*
- *Assignment to new supervisor*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions*: In addition to or in place of the above sanctions/responsive actions, the College may assign any other responsive actions as deemed appropriate.

24. Notice of Outcome

Within ten (10) business days of the conclusion of the Resolution Process, the Director of Educational Equity provides the Parties with a written outcome notification. The outcome notification will specify the finding for each alleged Policy violation, all applicable sanctions that the College is permitted to share pursuant to state or federal law, and a detailed rationale, written by the Decision-maker(s), supporting the findings to the extent the College is permitted to share under applicable federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, and when the determination is considered final if no Party appeals.

The Director of Educational Equity will provide the Parties with the outcome notification simultaneously, or without significant time delay between notifications. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official College records, or emailed to

the Parties' College-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

25. Withdrawal or Resignation Before Complaint Resolution

A. Students

Should a student Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from the College, the Resolution Process may continue, or the Director of Educational Equity may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, the College will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged sex discrimination, sex-based harassment, and/or retaliation.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, the College will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sex discrimination, sex-based harassment, and/or retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to the College in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Director of Educational Equity has discretion to dismiss the Complaint. The Registrar, Office of Admissions, and Human Resources may be notified, accordingly.

If the student Respondent takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely. If found in violation, that student is not permitted to return to the College unless and until all sanctions, if any, have been satisfied.

B. Employees

Should an employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an employee Respondent leaves their employment with the College with unresolved allegations pending, the Resolution Process may continue, or the Director of Educational Equity may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, the College may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged sex discrimination, sex-based harassment, and/or retaliation.

When an employee Respondent resigns and the Complaint is dismissed, the employee may not return to the College in any capacity. The Registrar, Office of Admissions, and

Human Resources will be notified, accordingly, and a note will be placed in the employee's file (or other appropriate College records) that they resigned with allegations pending and are not eligible for academic admission or rehire with the College. The records retained by the Director of Educational Equity will reflect that status.

26. Appeal of the Determination

The Director of Educational Equity will designate an Appeal Decision-maker — either a three-member panel, or an individual chosen from the Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker(s) will have been previously involved in the Resolution Process for the Complaint, including in any supportive measure challenge or dismissal appeal that may have been decided earlier in the process. If a panel is used, a voting chair will be designated by the Director of Educational Equity.

A. Appeal Grounds

Appeals are limited to the following grounds:

- 1) A procedural irregularity that would change the outcome.
- 2) New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility was made.
- 3) The Director of Educational Equity, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the specific Complainant or Respondent that would change the outcome.
- 4) A challenge to the severity of sanctions. Appeals by students based on severity of sanctions shall be determined by the Appeal Panel. Appeals by staff based on severity of sanctions shall be determined by the Office of Human Resources. Appeals by faculty based on severity of sanctions shall be determined pursuant to the procedure set forth in the faculty handbook.

B. Request for Appeal

Any Party may submit a written request for appeal ("Request for Appeal") to the Director of Educational Equity within five (5) business days of the delivery of the Notice of Outcome.

The Request for Appeal will be forwarded to the Appeal Decision-maker (or Appeal Chair) for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisers will be simultaneously notified in writing of the denial and the rationale.

If any of the information in the Request for Appeal meets the grounds in this Policy, then the Appeal Decision-maker will notify all Parties and their Advisers, the Director of Educational Equity, and, when appropriate, the Investigator(s) and/or the original Decision-makers.

All other Parties and their Advisers, the Director of Educational Equity, and, when appropriate, the Investigator(s) and/or the Decision-makers will be provided a copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing Party (if any) may also choose to appeal at this time. If so, that Request for Appeal will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the Party who initially requested an appeal, the Director of Educational Equity, and the Investigator(s) and/or original Decision-makers, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties and their Advisers will be notified accordingly, in writing.

No Party may submit any new Requests for Appeal after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

C. Appeal Determination Process

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decision-makers will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made by majority vote and apply the preponderance of the evidence standard of proof.

An appeal is not an opportunity for the Appeal Decision-makers to substitute their judgment for that of the original Decision-makers merely because they disagree with the finding and/or sanction(s).

The Appeal Decision-makers may consult with the Director of Educational Equity and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Director of Educational Equity will maintain documentation of all such consultation.

D. Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-makers with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-makers or the Director of Educational Equity (as in cases of bias), the Appeal Decision-makers may order a new investigation and/or a new determination with new Pool members serving in the Investigator and Decision-maker roles.

A Notice of Appeal Outcome letter (“Appeal Outcome”) will be sent to all Parties simultaneously, or without significant time delay between notifications. The Appeal Outcome will specify the finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result which the College is permitted to share according to applicable federal or state law, and the rationale supporting the essential findings to the extent the College is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the Parties’ local or permanent address as indicated in official institutional records, or emailed to the Parties’ College-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, the Appeal Outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.

If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the four (4) available appeal grounds.

E. Sanction Status During the Appeal

Any sanctions imposed as a result of the determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal procedures (detailed above) for a “show cause” meeting on the justification for doing so must be permitted within two (2) business days of implementation.

27. Long-Term Remedies/Other Actions

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Director of Educational Equity may implement additional long-term remedies or actions with respect to the Parties and/or the College community that are intended to stop the sex discrimination, sex-based harassment, retaliation, and/or Other Prohibited Conduct, remedy the effects, and prevent recurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact restrictions between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Director of Educational Equity, certain long-term supportive measures may also be provided to the Parties even if no Policy violation is found.

When no Policy violation is found, the Director of Educational Equity will address any remedies the College owes the Respondent to ensure no effective denial of educational access. The College will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair the College’s ability to provide these services.

28. Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms

All Respondents must comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-makers, including the Appeal Panel or Decision-maker or the Informal Resolution agreement.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or for any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the College.

Supervisors are expected to enforce the completion of sanctions/responsive actions for their employees.

Additional sanctions imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Director of Educational Equity's satisfaction.

29. Recordkeeping

For a period of at least seven (7) years following the conclusion of the Resolution Process, the College will maintain records of:

- 1) Each sex discrimination, sex-based harassment, and retaliation resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation.
- 2) Any disciplinary sanctions imposed on the Respondent.
- 3) Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to the College's education program or activity.
- 4) Any appeal and the result therefrom.
- 5) Any Informal Resolution and the result therefrom.
- 6) All materials used to provide training to the Director of Educational Equity, Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitators, and any person who is responsible for implementing the College's Resolution Process, or who has the authority to modify or terminate supportive measures. The College will make these training materials available for review upon request.
- 7) All materials used to train all employees consistent with the requirements in the Title IX Regulations.

The College will also maintain any and all records in accordance with applicable federal and state laws.

30. Accommodations and Support During the Resolution Process

Disability Accommodations

The College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College's Resolution Process.

Anyone needing such accommodations or support should contact the Director of Educational Equity, who will work with Accessibility Services colleagues as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

Other Support

The College will also address reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout the Resolution Process
- Other support as deemed reasonable and necessary to facilitate participation in the Resolution Process

31. Revision of these Procedures

These procedures succeed any previous procedures addressing sex discrimination, sex-based or sexual harassment, and retaliation for incidents occurring on or after August 1, 2024. The Director of Educational Equity will regularly review and update these procedures. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If governing laws or regulations change, or court decisions alter, the requirements in a way that impacts this document, this document will be construed to comply with the most recent governing laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background federal and state laws that frame such policies and codes, generally.

These procedures are effective August 1, 2024.

*BASED ON THE ATIXA 2024 MODEL POLICY AND PROCEDURE (AMPP) MODEL.
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APPENDIX A: DEFINITIONS

The following definitions apply to the Prohibited Sex Discrimination, Sex-based Harassment, and Retaliation Policy and Resolution Process:

- **Adviser.** Any person chosen by a Party, or appointed by the College, who may accompany the Party to all meetings related to the Resolution Process and advise the Party on that process.
- **Director of Educational Equity.** The person with primary responsibility for overseeing and enforcing the Policy and Resolution Process. As used in these policies and procedures, the “Director of Educational Equity” also includes the Director’s designee(s).
- **Appeal Decision-maker.** The person or panel who accepts or rejects a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s) accordingly.
- **Complainant.** A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sex-based harassment, or retaliation under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct under the Policy and who was participating or attempting to participate in the College’s education program or activity at the time of the alleged sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct.
- **Complaint.** An oral or written request to the College that can objectively be understood as a request for the College to investigate and make a determination about the alleged Policy violation(s).
- **Confidential Employee.**
 - An employee whose communications are privileged or confidential under federal or state law. The employee’s confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
 - An employee whom the College has designated as confidential under this Policy for the purpose of providing services to persons related to sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct. If the employee also has a duty not associated with providing those services, the employee’s confidential status only applies with respect to information received about sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct in connection with providing those services; or
 - An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination,

sex-based harassment, retaliation, or Other Prohibited Conduct. The employee's confidential status only applies with respect to information received while conducting the study.

- **Day.** A business day when the College is in normal operation. All references in the Policy to days refer to business days unless specifically noted as calendar days.
- **Decision-maker.** The person or panel who reviews evidence, determines relevance, and makes the Final Determination of whether Policy has been violated and/or assigns sanctions.
- **Education Program or Activity.** Locations, events, or circumstances where the College exercises substantial control over the context in which the sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct occurs and also includes any building owned or controlled by a student organization that the College officially recognizes.
- **Employee.** A person employed by the College either full- or part-time, including student employees when acting within the scope of their employment.
- **Final Determination.** A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.
- **Finding.** A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a "finding of fact").
- **Informal Resolution.** A resolution agreed to by the Parties and approved by the Director of Educational Equity that occurs prior to a Final Determination in the Resolution Process.
- **Investigation Report.** The Investigators' summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) authorized by the College to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.
- **Knowledge.** When the College receives Notice of conduct that reasonably may constitute sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct in its Education Program or Activity.
- **Mandated Reporter.** A College employee who is obligated by Policy to share Knowledge, Notice, and/or reports of sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct with the Director of Educational Equity.

- **Notice.** When an employee, student, or third party informs the Director of Educational Equity of the alleged occurrence of sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct.
- **Parties.** The Complainant(s) and Respondent(s), collectively.
- **Pregnancy or Related Conditions.** Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- **Relevant Evidence.** Evidence that may aid a Decision-maker in determining whether the alleged sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct occurred, or in determining the credibility of the Parties or witnesses.
- **Remedies.** Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to the College's Education Program and Activity.
- **Resolution Process.** The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution, and Hearing Resolution.
- **Respondent.** A person who is alleged to have engaged in conduct that could constitute sex discrimination, sex-based harassment, retaliation for engaging in a protected activity under this Policy, or Other Prohibited Conduct.
- **Sanction.** A consequence imposed on a Respondent who is found to have violated this Policy.
- **Sex.** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- **Student.** Any person who has gained admission to the College.
- **Title IX Coordinator.** The official designated by the College to ensure ultimate oversight of compliance with Title IX and the College's Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the Coordinator for specific tasks.
- **Title IX Team.** The Director of Educational Equity, any deputy coordinators, and any member of the [Resolution Process Pool](#).

APPENDIX B: STATEMENT OF THE PARTIES' RIGHTS

Under this Policy and procedures, the Parties have the right to:

- An equitable investigation and resolution of all credible allegations of prohibited sex discrimination, sex-based harassment, retaliation, and Other Prohibited Conduct, when reported in good faith to College officials.
- Timely written notice of all alleged violations, including the identity of the Parties involved (if known), the specific misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated Policies and procedures, and possible sanctions.
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants) by updating the Notice of Investigation and Allegation(s) (NOIA) as needed to clarify potentially implicated Policy violations.
- Be informed in advance of any College public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- Have all personally identifiable information protected from the College's release to the public without consent, except to the extent permitted by law.
- Be treated with respect by College officials.
- Have College Policy and these procedures followed without material deviation.
- Voluntarily agree to resolve allegations under this Policy through Informal Resolution without College pressure, if Informal Resolution is approved by the Director of Educational Equity.
- Not be discouraged by College officials from reporting sex discrimination, sex-based harassment, retaliation, and Other Prohibited Conduct to both on-campus and off-campus authorities.
- Be informed of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by the College in notifying such authorities, if the party chooses. This also includes the right to not be pressured to report.
- Have allegations of violations of this Policy responded to promptly and with sensitivity by College law enforcement, security, and/or other College officials.
- Be informed of available supportive measures, such as counseling, advocacy, health care, student financial aid, visa and immigration assistance, and/or other services, both on-campus and in the community.
- A College-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- Be informed of available assistance in changing academic, living, and/or employment situations after an alleged incident of sex discrimination, sex-based harassment, retaliation, and/or Other Prohibited Conduct if such changes are reasonably available.

No formal report, or investigation, either institutional or criminal, needs to occur for this option to be available. Such actions may include, but are not limited to:

- Relocating a residential student's housing to a different on-campus location
 - Assistance from College staff in completing the relocation
 - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
 - Transportation assistance
 - Visa/immigration assistance
 - Arranging to dissolve a housing contract and provide a pro-rated refund
 - Rescheduling or adjusting an exam, paper, and/or assignment
 - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
 - Transferring class sections
 - Temporary withdrawal/leave of absence (may be retroactive)
 - Campus safety escorts
 - Alternative course completion options
- Have the College maintain supportive measures for as long as necessary, ensuring they remain confidential, provided confidentiality does not impair the College's ability to provide the supportive measures.
 - Receive sufficiently advanced written notice of any College meetings or interviews involving another party, when possible.
 - Identify and have the Investigator(s) and/or Decision-makers question relevant available witnesses, including expert witnesses.
 - Provide the Investigator(s)/Decision-maker with a list of questions that, if deemed relevant and permissible by the Investigator(s)/Decision-maker, may be asked of any party or witness.
 - Have Complainant's inadmissible sexual interests/prior sexual history or any Party's irrelevant character evidence excluded by the Decision-makers.
 - Access the relevant evidence obtained and respond to that evidence.
 - A fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
 - Receive a copy of all relevant and permissible evidence obtained during the investigation, subject to privacy limitations imposed by federal and state law, and be given ten (10) business days to review and comment on the evidence.
 - The right to receive a copy of the Final Investigation Report, including all factual, Policy, and/or credibility analyses performed, and to have at least seven (7) business days to review the report prior to the determination.
 - Be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
 - Regular status updates on the investigation and/or Resolution Process.
 - Have reports of alleged Policy violations addressed by Resolution Process Pool members who have received relevant annual training as required by law.
 - A Decision-making panel that is not single sex in its composition, if a panel is used.

- Preservation of confidentiality/privacy, to the extent possible and permitted by law.
- Meetings, interviews, and/or hearings that are closed to the public.
- Petition that any College representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- Be able to select an Adviser of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
- Apply the appropriate standard of proof, preponderance of the evidence, to make a Finding and Final Determination after an objective evaluation of all relevant and permissible evidence.
- Be present, including presence via remote technology, during all testimony given and evidence presented during any live hearing.
- Have an impact and/or mitigation statement considered by the Decision-maker following a determination of responsibility for any allegation, but prior to sanctioning.
- Be promptly informed of the Resolution Process finding(s) and sanction(s) (if any) and be given a detailed rationale of the decision (including an explanation of how credibility was assessed) in a written outcome letter delivered to the Parties simultaneously (without undue delay).
- Be informed in writing of when a College decision is considered final and any changes to the Final Determination or sanction(s) that occur post outcome letter delivery.
- Be informed of the opportunity to appeal the Resolution Process finding(s) and sanction(s), and the procedures for doing so in accordance with the College's grounds for appeal.
- A fundamentally fair resolution as defined in these procedures.

APPENDIX C: PRIVACY, PRIVILEGE, AND CONFIDENTIALITY

For the purpose of this Policy, the terms *privacy*, *confidentiality*, and *privilege* have distinct meanings.

- **Privacy** means that information related to a Complaint will be shared with a limited number of College employees who need to know the information in order to assist in providing supportive measures or evaluating, investigating, or resolving the Complaint. All employees who are involved in the College's response to Notice under this Policy receive specific training and guidance about sharing and safeguarding private information in accordance with applicable federal and state law.
- **Confidentiality** exists in the context of laws or professional ethics (including Title IX) that protect certain relationships, including clinical care, mental health providers, and counselors. Confidentiality also applies to those designated by the College as Confidential Employees for purposes of reports under this Policy, regardless of legal or ethical protections. When a Complainant shares information with a Confidential Employee, the Confidential Employee does not need to disclose that information to the Title IX Coordinator. The Confidential Resource will, however, provide the Complainant with the Title IX Coordinator's contact information, assist the Complainant in reporting, if desired, and provide them with information on how the Office of Educational Equity can assist them. With respect to Confidential Employees, information may be disclosed when: (1) the reporting person gives written consent for its disclosure; (2) there is a concern that the person will likely cause serious physical harm to self or others; or (3) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or persons with disabilities. Non-identifiable information may be shared by Confidential Employees for statistical tracking purposes as required by the Clery Act/Violence Against Women Act (VAWA). Other information may be shared as required by law.
- **Privilege** exists in the context of laws that protect certain relationships, including attorneys, spouses, and clergy. Privilege is maintained by a provider unless a court orders release or the holder of the privilege (e.g., a client, spouse, parishioner) waives the protections of the privilege. The College treats employees who have the ability to have privileged communications as Confidential Employees.

The College reserves the right to determine which College officials have a legitimate educational interest in being informed about student-related incidents that fall under this Policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the Complaint. Information will be shared as necessary with Investigators, Decision-makers, Appeal Decision-makers, witnesses, the Parties, and the Parties' Advisers. The circle of people with this knowledge will be kept as tight as possible to preserve the Parties' rights and privacy, and release is governed by the institution's unauthorized disclosure policy.

The College may contact students' parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student prior to doing so.

APPENDIX D: UNETHICAL RELATIONSHIPS

There are risks inherent in any romantic or sexual relationship between individuals in unequal positions. Although such relationships may not constitute harassment, they may compromise the integrity of the educational or employment process. The special relationship between students and teachers, coaches, advisers, or other staff members who counsel them, and employees and their supervisors, requires that special additional rules apply as addressed below.

Prohibited Relationships between Faculty/Staff Members and Students

Students of a Particular Instructor/Staff Member

While a student is a student of a particular instructor/staff member, the instructor/staff member is prohibited from engaging in or pursuing a romantic and/or sexual relationship with that student. This rule applies even if the romantic advance or sexual relationship is welcome. A student is a “student of a particular instructor/staff member” when:

- The student is currently enrolled in a course taught by the instructor and/or has not yet received a final grade;
- The student is assigned to be advised by a particular instructor/staff member;
- The student is an athlete coached by a particular intercollegiate athletic coach or trainer;
- The student is advised by a professional advisory committee member, honors committee member, or member of a comparable committee; and
- At other times when an instructor/staff member has a relationship with a student such that a student’s activities at the College are being supervised or evaluated by the instructor/staff member.

Other Students

Unless prohibited above, if a welcome sexual and/or romantic relationship develops between a student and an instructor/staff member, the instructor/staff member must not thereafter take part in any activity that involves evaluation of the student’s work or performance. If a student later becomes a “student of a particular instructor/staff member,” the instructor/staff member shall disclose the existence of such a relationship to the Provost or Vice President of Human Resources, as appropriate, who shall make alternative arrangements for the evaluative process.

Prohibited Relationships between Supervisors and Subordinates

Any person (a) who has power, either individually or collectively with others, to dispense or influence rewards or punishments regarding another person, (b) who evaluates the work performance of another person, or (c) to whom another person reports regarding work assignments, may not subject such other person to any unwelcome sexual conduct such as an unwelcome sexual advance or request for sexual favors, regardless of whether submission to

such conduct is explicitly or implicitly made a basis for a decision affecting such person or whether such conduct creates a hostile environment.

If a welcome sexual and/or romantic relationship develops between a supervisor and a subordinate, or between faculty in the same department or program, the more senior employee must not thereafter take part in any activity that involves evaluation of the other's work. Under such circumstances, the more senior employee shall disclose the existence of such a relationship to the Provost or the Vice President of Human Resources and the Title IX Coordinator as appropriate, who shall make alternative arrangements for the evaluative process.

The College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy. More specific sanctions are defined within the Procedures.

APPENDIX E: PREGNANCY AND RELATED CONDITIONS POLICY

1. Non-Discrimination Statement

The College does not discriminate in its education program or activity against any applicant for admission, student, applicant for employment, or employee on the basis of current, potential, or past pregnancy or related conditions as mandated by Title IX of the Education Amendments of 1972 (Title IX). The College prohibits members of the College community from adopting or implementing any policy, practice, or procedure which treats an applicant for admission, student, applicant for employment, or employee differently on the basis of current, potential, or past parental, family, or marital status. This Policy and its pregnancy-related protections apply to all pregnant persons, regardless of gender identity or expression.

2. Definitions

- ***Familial Status.*** The configuration of one's family or one's role in a family.
- ***Marital Status.*** The state of being married or unmarried.
- ***Parental Status.*** The status of a person who, with respect to another person who is under the age of 18,¹² is a biological, adoptive, foster, or stepparent; a legal custodian or guardian; in loco parentis with respect to such a person; or actively seeking legal custody, guardianship, visitation, or adoption of such a person.
- ***Pregnancy and Related Conditions.*** The full spectrum of processes and events connected with pregnancy, including pregnancy, childbirth, termination of pregnancy, or lactation; related medical conditions; and recovery therefrom.
- ***Reasonable Modifications.*** Individualized modifications to the College's policies, practices, or procedures that do not fundamentally alter the College's education program or activity.

3. Information Sharing Requirements

Any College employee who becomes aware of a student's pregnancy or related condition is required to provide the student with the Title IX Coordinator's contact information and communicate that the Coordinator can help take specific actions to prevent discrimination and ensure equal access to the College's education program and activity. If the employee has a reasonable belief that the Title IX Coordinator is already aware of the pregnancy or related condition, the employee is not required to provide the student with the Title IX Coordinator's contact information.

¹² Or a person who is 18 or older but who is incapable of self-care because of a mental or physical disability.

Upon notification of a student's pregnancy or related condition, the Title IX Coordinator will contact the student and inform the student of the College's obligations to:

- Prohibit sex discrimination.
- Provide reasonable modifications.
- Allow access, on a voluntary basis, to any separate and comparable portion of the institution's education program or activity.
- Allow a voluntary leave of absence.
- Ensure lactation space availability.
- Maintain a Resolution Process for alleged discrimination.
- Treat pregnancy as comparable to other temporary medical conditions for medical benefit, service, plan, or policy purposes.

The Title IX Coordinator will also notify the student of the process to file a complaint for alleged discrimination, harassment, or retaliation, as applicable.

4. Reasonable Modifications for Students

Students who are pregnant or are experiencing related conditions are entitled to Reasonable Modifications to prevent sex discrimination and ensure equal access to the College's education program and activity. Any student seeking Reasonable Modifications must contact the Title IX Coordinator to discuss appropriate and available Reasonable Modifications based on their individual needs. Students are encouraged to request Reasonable Modifications as promptly as possible, although retroactive modifications may be available in some circumstances. Reasonable Modifications are voluntary, and a student can accept or decline the offered Reasonable Modifications. Not all Reasonable Modifications are appropriate for all contexts.

Reasonable Modifications may include:

- Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom
- Intermittent absences to attend medical appointments
- Access to online or homebound education
- Changes in schedule or course sequence
- Time extensions for coursework and rescheduling of tests and examinations
- Allowing a student to sit or stand, or carry or keep water nearby
- Counseling
- Changes in physical space or supplies (for example, access to a larger desk or a footrest)
- Elevator access
- A larger uniform or other required clothing or equipment
- Other changes to policies, practices, or procedures determined by the Title IX Coordinator

In situations such as clinical rotations, performances, labs, and group work, the College will work with the student to devise an alternative path to completion, if possible. In progressive curricular and/or cohort-model programs, medically necessary leaves are sufficient cause to permit the student to shift course order, substitute similar courses, or join a subsequent cohort when returning from leave. Students are encouraged to work with their faculty members and the College's support systems to devise a plan for how to best address the conditions as pregnancy progresses, anticipate the need for leaves, minimize the academic impact of their absence, and get back on track as efficiently and comfortably as possible. The Title IX Coordinator will assist with plan development and implementation as needed.

Supporting documentation for Reasonable Modifications will only be required when it is necessary and reasonable under the circumstances to determine which Reasonable Modifications to offer to determine other specific actions to take to ensure equal access.

Information about pregnant students' requests for modifications will be shared with faculty and staff only to the extent necessary to provide the Reasonable Modification.

Students experiencing pregnancy-related conditions that manifest as a temporary disability under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act are eligible for reasonable accommodations just like any other student with a temporary disability. The Title IX Coordinator will consult with the Office of Accessibility Services to ensure the student receives reasonable accommodations for their disability as required by law.

5. Certification to Participate

All students should be informed of health and safety risks related to participation in academic and co-curricular activities, regardless of pregnancy status. A student may not be required to provide health care provider or other certification that the student is physically able to participate in the program or activity, unless:

1. The certified level of physical ability or health is necessary for participation;
2. The institution requires such certification of all students participating; and
3. The information obtained is not used as a basis for pregnancy-related discrimination.

6. Lactation Space Access

The College provides students and employees with access to lactation spaces that are functional, appropriate, and safe. Such spaces are regularly cleaned, shielded from view, and free from the intrusion of others.

Lactation spaces are located in the following locations:

Skillman Library – Room 214
Simon Center – Room 110

To access the lactation space, reservation requests should be submitted using the College's Online Reservation System at ems.lafayette.edu.

7. Leaves of Absence

A. Students

Students are permitted to take a voluntary leave of absence for a reasonable time as deemed medically necessary by their healthcare provider because of pregnancy and/or the birth, adoption, or placement of a child. The leave term may be extended in the case of extenuating circumstances or medical necessity. While registered under that status, students who choose to take a leave of absence under this policy can elect to keep their health insurance coverage and continue residing in College housing, subject to the payment of applicable fees.

To the extent possible, College will take reasonable steps to ensure that students who take a leave of absence or medical leave return to the same position of academic progress that they were in when they took leave, including access to the same or an equivalent course catalog that was in place when the leave began.

Continuation of students' scholarships, fellowships, or similar College-sponsored funding during the leave term will depend on student registration status and the policies of the funding program regarding registration status. Students will not be negatively impacted by or forfeit their future eligibility for their scholarship, fellowship, or similar College-supported funding by exercising their rights under this policy.

The Financial Aid Office can and will advocate for students with respect to financial aid agencies and external scholarship providers in the event that a leave of absence places eligibility into question.

In order to initiate a leave of absence, the student must contact the Title IX Coordinator at least 30 calendar days prior to the initiation of leave, or as soon as practicable. The Coordinator will assist the student in completing any necessary paperwork.

B. Employees

Information on employment leave can be found at <http://hr.lafayette.edu>.

If an employee is not eligible for leave under the aforementioned leave policy because they either (1) do not have enough leave time available under that policy, or (2) have not been employed long enough to qualify for leave under that policy, they may be eligible to qualify for pregnancy or related condition leave under Title IX. Pregnancy and

related conditions will be regarded as a justification for a leave of absence without pay for a reasonable period of time.

Employees who take leave under Title IX must be reinstated to the status held when leave began or a comparable position without a negative effect on any employment privilege or right.

8. Policy Dissemination and Training

A copy of this policy will be made available to faculty and employees in annually required training and posted on the College website. The College will alert all new students about this policy and the location of this policy as part of orientation. The Office of Educational Equity will make educational materials available to all members of the College community to promote compliance with this Policy and familiarity with its procedures.

APPENDIX F: TRAINING FOR MEMBERS OF THE RESOLUTION PROCESS POOL

All Investigators, Decision-makers, and other persons who are responsible for implementing the College's Title IX policies and procedures will receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX, and annually thereafter. Materials will not rely on sex stereotypes. Training topics include, but are not limited to:

- The role of the Title IX Coordinator
- The scope of the College's Title IX Policy
- The College's Resolution Process
- How to conduct a sex discrimination resolution process consistently, including issues of disparate treatment, disparate impact, sex-based harassment, quid pro quo, hostile environment harassment, and retaliation
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias and confirmation bias
- Treating Parties equitably
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- Trauma-informed practices pertaining to investigations and resolution processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all prohibited conduct
- How to conduct an investigation and grievance process, including administrative resolutions, hearings, appeals, and Informal Resolution Processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants
- Any technology to be used at a live hearing
- The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under the Title IX Regulations
- Issues of relevance and creating an Investigation Report that fairly summarizes relevant and not impermissible evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recordkeeping

- Training for Informal Resolution facilitators on the rules and practices associated with the College's Informal Resolution process
- Supportive Measures
- Clery Act/VAWA requirements applicable to Title IX
- The College's obligations under Title IX
- How to apply definitions used by the College with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with Policy
- Reasonable modifications and specific actions to prevent discrimination and ensure equal access for pregnancy or related conditions
- Any other training deemed necessary to comply with Title IX