

## **LAFAYETTE COLLEGE RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY ON EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION**

This Resolution Process for Alleged Violations of the Policy on Equal Opportunity, Harassment, and Non-Discrimination (“Resolution Process”) applies to allegations of harassment and discrimination based on a protected class under Lafayette College’s Policy on Equal Opportunity, Harassment, and Non-Discrimination (the “Policy”) and which do not fall within the Lafayette College Interim Title IX Policy and Procedure. This Resolution Process also applies to allegations of sexual harassment, sexual assault, dating violence, domestic violence and stalking not covered by Title IX. If the conduct at issue is covered by the Interim Title IX Policy and Procedure, that Policy and Procedure must be followed.

Lafayette College (the “College”) will act on any formal or informal allegation or notice of violation of the Policy that is received by the Director of Institutional Equity/Title IX Coordinator<sup>1</sup> or a member of the administration, faculty, or other employee, as articulated in the Policy.

The procedures described below will be used to receive, investigate, and resolve complaints under the Policy and apply to all allegations of harassment or discrimination brought against students, staff, or faculty on the basis of any protected characteristic. 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 Lafayette 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. The procedures apply to all academic, extra-curricular and College-sponsored activities.

The procedures also apply to all other off campus conduct by a Lafayette student, consistent with the Student Code of Conduct. As such, the procedures apply to recognized student organizations and social media postings.

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.

### **1. Initial Assessment**

Following intake, receipt of notice, or a complaint of an alleged violation of the Policy, the Director of Institutional Equity (or designee)<sup>2</sup> engages in an initial assessment, which typically occurs within five (5) business days. The College must assess whether each reported incident violated this Policy, including

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<sup>1</sup> All references herein to the Director of Institutional Equity refer to the Title IX Coordinator and also include a designee of the Title IX Coordinator.

<sup>2</sup> If circumstances require, the President or Director of Institutional Equity will designate another person to oversee the resolution process should an allegation be made about the Director of Institutional Equity or the Director be otherwise unavailable or unable to fulfill their duties.

but not limited whether each reported incident has created a hostile environment, whether or not the conduct alleged occurred off campus or on social media.

The steps in an initial assessment can include:

- The Director of Institutional Equity reaches out to the Complainant to offer supportive measures.
- The Director of Institutional Equity works with the Complainant to ensure they have an Adviser.
- The Director of Institutional Equity works with the Complainant to determine whether the Complainant prefers a supportive response or an Administrative Resolution.
  - If a supportive and remedial response is preferred, the Director of Institutional Equity works with the Complainant to identify their wishes and then seeks to facilitate implementation. The Administrative Resolution process is not initiated, though the Complainant can elect to initiate it later, if desired.
  - If an Informal Resolution option is preferred, the Director of Institutional Equity assesses whether the matter is suitable for Informal Resolution, which informal mechanism may serve the situation best or is available and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
  - If Administrative Resolution is preferred, the Director of Institutional Equity initiates the investigation process and determines whether the scope of the investigation will address:
    - Incident, and/or
    - A potential pattern of misconduct, and/or
    - A culture/climate issue.

## **2. Next Steps After Initial Assessment**

Based on the initial assessment, the Director of Institutional Equity will initiate one of two responses:

- Informal Resolution – typically used for less serious offenses and only when all parties agree to Informal Resolution, or when the Respondent is willing to accept responsibility for violating the Policy. This can also include a remedies-only response.
- Administrative Resolution – investigation of Policy violation(s) and recommended finding, subject to a determination by the Decision-makers, and the opportunity to appeal to an Appeal Panel. The investigation and the subsequent Administrative Resolution determine whether the Policy has been violated. If so, the Director of Institutional Equity will promptly implement effective remedies designed to end the discrimination, harassment, and/or retaliation, prevent recurrence, and address the effects.

The Director of Institutional Equity will consider the preference of the parties as to whether Informal Resolution or Administrative Resolution will be followed, but the decision is within the discretion of the Director of Institutional Equity. At any point during the initial assessment or investigation, if the Director of Institutional Equity determines that reasonable cause does not support the conclusion that the Policy has been violated, the process will end, and the parties will be notified.

The Complainant may request that the Director of Institutional Equity review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Director of Institutional Equity, but the request is usually only granted in extraordinary circumstances.

### **3. Resolution Process Pool**

The resolution process relies on a pool of officials (the “Pool”) to carry out the process. The Pool is described in the Interim Title IX Policy and Procedure (#12).

### **4. Counterclaims**

The College permits the filing of counterclaims, but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a Respondent may be made in good faith, but are, on occasion, made for purposes of retaliation, instead. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the resolution procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur. A delay in the processing of counterclaims is permitted, accordingly.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Director of Institutional Equity. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of the Policy.

### **5. Advisers**

#### **a. Expectations of an Adviser**

The College generally expects an Adviser to adjust their schedule to allow them to attend College meetings when planned, but the College may change scheduled meetings 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 attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

Parties whose Advisers are disruptive or who do not abide by College policies and procedures may face the loss of that Adviser and/or possible Policy violations.

Advisers are expected to consult with their advisees without disrupting College meetings or interviews. Advisers do not represent parties in the process; their role is only to advise.

#### **b. Expectations of the Parties with Respect to Advisers**

Each party may choose an Adviser<sup>3</sup> who is eligible and available<sup>4</sup> to accompany them throughout the process. The Adviser can be anyone, including an attorney, but should not be someone who is also a

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<sup>3</sup> This could include an attorney, advocate, or support person. Witnesses are not entitled to Advisers within the process, though they can be advised externally.

<sup>4</sup> “Available” means the party cannot insist on an Adviser who simply does not have the inclination, time, or availability. Also, the Adviser cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

witness in the process. A party may elect to change Advisers during the process and is not obligated to use the same Adviser throughout.

The parties are expected to inform the Investigators of the identity of their Adviser at least two (2) business days before the date of their first meeting with the Investigator(s) (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Investigator(s) and/or the Director of Institutional Equity if they change Advisers at any time.

Upon written request of a party, the College will copy the Adviser on all communications between the College and the party.

## **6. Resolution Options**

Proceedings are private. All persons present at any time during any resolution process are expected to maintain the privacy of the proceedings in accordance with the Policy.

While there is an expectation of privacy around what is discussed during interviews, the parties have discretion to share their own experiences with others if they so choose, but are encouraged to discuss this with their Advisers first before doing so.

### **a. Informal Resolution**

Informal Resolution is applicable when the parties voluntarily agree to resolve the matter through (i.) Supportive Measures, a remedies-only approach initiated by the Director of Institutional Equity, (ii.) Alternate Resolution [mediation, restorative practices, negotiated resolution, etc.], or (iii.) when the Respondent accepts responsibility for violating the Policy.

It is not necessary to pursue Informal Resolution first in order to pursue Administrative Resolution, and any party participating in Informal Resolution can stop the process at any time and request the Administrative Resolution process. Further, if an Informal Resolution fails, Administrative Resolution may then be pursued.

#### **i. Supportive Measures**

With the Complainant's agreement, the Director of Institutional Equity may resolve the matter informally by providing supportive measures to remedy the situation, pursuant to Section 9 of the Policy.

#### **ii. Alternate Resolution**

Alternate Resolution is a type of Informal Resolution that includes mediation, restorative practices, or negotiated resolution. At the end of Alternate Resolution, the parties reach a mutually agreed upon resolution of an allegation. It may be used as an alternative to the Administrative Resolution process (described below) to resolve conflicts. All parties must consent to the use of Alternate Resolution. Alternate Resolutions are not appealable.

The Director of Institutional Equity determines if Alternate Resolution is appropriate, based on the

willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to Alternate Resolution.

In an Alternate Resolution meeting, a trained administrator facilitates a dialogue with the parties to an effective resolution, if possible. Institutionally-imposed sanctions are not possible as the result of an Alternate Resolution process, though the parties may agree to accept sanctions and/or appropriate remedies.

The Director of Institutional Equity maintains records of any resolution that is reached, and failure to abide by the resolution can result in appropriate enforcement actions.

Alternate Resolution is not typically the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the Administrative Resolution process is completed, should the parties and the Director of Institutional Equity believe it could be beneficial. The results of Alternate Resolution are not appealable.

### **iii. Respondent Accepts Responsibility for Alleged Violations**

The Respondent may accept responsibility for all or part of the alleged Policy violations at any point during any resolution process. If the Respondent accepts responsibility, the Director of Institutional Equity makes a determination that the individual is in violation of College Policy.

The Director of Institutional Equity then determines appropriate sanction(s) or responsive actions, which are promptly implemented in order to effectively stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the conduct, both on the Complainant and the community.

If the Respondent accepts responsibility for all of the alleged policy violations and the Director of Institutional Equity or designee has determined appropriate sanction(s) or responsive actions, which are promptly implemented, the process is over. This result is not subject to appeal. The Complainant will be informed of this outcome.

If the Respondent accepts responsibility for some of the alleged policy violations and the Director of Institutional Equity has determined appropriate sanction(s) or responsive actions, which are promptly implemented, for those violations, then the remaining allegations will continue to be investigated and resolved. The Complainant will be informed of this outcome. The parties are still able to seek Alternate Resolution on the remaining allegations, subject to the stipulations above.

### **b. Administrative Resolution**

Administrative Resolution is a more formal procedure that can be pursued for any behavior for which the Respondent has not accepted responsibility that constitutes conduct covered by the Policy. Administrative Resolution starts with a thorough, reliable, and impartial investigation.

If Administrative Resolution is initiated, the Director of Institutional Equity will provide written notification of the allegations and the investigation to the parties at an appropriate time during the investigation. Typically, notice is given at least two (2) business days in advance of an interview.

Advanced notice facilitates the parties' ability to identify and choose an Adviser, if any, to accompany them to the interview.

Notification will include a meaningful summary of the allegations, will be made in writing, and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties 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, notice will be presumptively delivered. The notification should include the policies allegedly violated, if known at the time. Alternatively, the policies allegedly violated can be provided at a later date, in writing, as the investigation progresses, and details become clearer.

The College aims to complete the Administrative Resolution process within sixty to ninety (60-90) business days, which can be extended as necessary for appropriate cause by the Director of Institutional Equity, with notice to the parties as appropriate. Some examples of appropriate cause might depend on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

Once the decision is made to commence an investigation, the Director of Institutional Equity appoints Pool members to conduct the investigation typically using a team of two Investigators, usually within two (2) days of determining that an investigation should proceed.

The Director of Institutional Equity will vet the assigned Investigator(s) to ensure impartiality by determining that there are no conflicts of interest or disqualifying bias.

The parties may, at any time during the Administrative Resolution process, raise a concern regarding any investigator's bias or conflict of interest, and the Director of Institutional Equity will determine whether the concern is reasonable and supportable. If so, another Investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the bias or conflict relates to the Director of Institutional Equity, concerns should be raised with the Vice President for Student Life.

The College may undertake a delay in its investigation when criminal charges based on the same behaviors that invoke the College's resolution process are being investigated by law enforcement. The College will promptly resume its investigation and resolution process once notified by law enforcement that the initial evidence collection process is complete.

College action(s) 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.

Investigations involve interviews with all relevant parties and witnesses, and obtaining available, relevant evidence, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence, on the record.

## 7. Investigation

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

- Determine the identity and contact information of the Complainant
- In coordination with campus partners (e.g., the Director of Institutional Equity), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct
- Assist the Director of Institutional Equity with conducting an initial assessment to determine if there is reasonable cause to believe the Respondent has violated College policy
- If there is insufficient evidence to support reasonable cause, the process is closed with no further action
- Commence a thorough, reliable, and impartial investigation
- Meet with the Complainant to finalize their statement, if necessary
- Prepare the initial Notice of Investigation and Allegation (NOIA) on the basis of the initial assessment. Notice may be one step or multiple steps, depending on how the investigation unfolds, and potential policy violations may be added or dropped as more is learned. Investigators will update the NOIA accordingly and provide it to the parties.
- Notice should inform the parties of their right to have the assistance of an Adviser of their choosing present for all meetings attended by the advisee
- When formal notice is being given, it should provide the parties with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result
- Give an instruction to the parties to preserve any evidence that is directly related to the allegations
- Provide the parties and witnesses with an opportunity to review and verify the Investigators' summary notes from interviews and meetings with that specific party or witness
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- Interview individuals who have information about the allegations and/or complaint, including but not limited to the Complainant (if known), the Respondent, witnesses, and anyone mentioned as having relevant information
- Conduct follow-up interviews as necessary
- Document the interviews
- Allow each party the opportunity to suggest questions they wish the Investigators to ask of the other party and witnesses
- Review any records, notes, statements, or other documents related to the allegations and/or complaint
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, summarize for the parties the list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation and all evidence
- Provide parties with a copy of the draft investigation report when it is completed, including all relevant evidence, analysis, credibility assessments, and recommended finding(s)

- Provide each party with a full and fair opportunity to respond to the report in writing within five (5) business days and incorporate that response into the report. The Investigators shall have the authority to provide any party with an additional five (5) business days to respond to the report upon good cause shown.
- Investigators may choose to respond in writing in the report to the responses of the parties, and/or to share the responses between the parties for their responses
- Provide the final report to the Director of Institutional Equity. The final report will make a recommendation to the Decision-makers on a determination, based on a preponderance of the evidence, whether a policy violation is more likely than not to have occurred.

## **8. Additional Details of the Investigation Process**

### **a. Witness responsibilities**

Witnesses (as distinguished from the parties) are encouraged to cooperate with and participate in the College's investigation and resolution process.

### **b. Remote processes**

Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigators or Decision-makers determine that timeliness or efficiency dictates a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, or respond to questions in writing, if deemed appropriate by the Investigators, though this approach is not ideal. Where remote technologies are used, the College makes reasonable efforts to ensure privacy, and that any technology does not work to the detriment of any party or subject them to unfairness.

### **c. Recording**

No unauthorized audio or video recording of any kind is permitted during the resolution process. If Investigators elect to audio and/or video record interviews, all involved parties must be made aware of and consent to audio and/or video recording.

### **d. Evidence**

Any evidence that is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct.

### **e. Sexual history/patterns**

Unless the Director of Institutional Equity determines it is relevant and appropriate, the investigation and the findings shall not consider: (1) incidents not directly related to the possible violation, unless they evidence a pattern; or (2) the sexual history of the parties (though a limited exception may be made with regard to the sexual history between the parties, if relevant).

### **f. Previous allegations/violations**

While previous conduct violations by the Respondent are not generally considered as information supporting the current allegation(s), the Investigators may supply the Director of Institutional



Equity/Decision-makers with information about previous good faith allegations and/or findings, when that information suggests potential pattern and/or predatory conduct.

Previous disciplinary action of any kind involving the Respondent may be considered in determining the appropriate sanction(s)/corrective measure(s).

#### **g. Participation by a Complainant**

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. This includes the Director of Institutional Equity retaining the right to initiate a complaint. Non-participatory or unresponsive parties retain the rights outlined in the Policy and the opportunity to participate in the Resolution Process.

When the Director of Institutional Equity executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the College proceeds, the Complainant (or their Adviser) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under the Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Adviser may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

The College's ability to remedy and respond to notice may be limited if the Complainant does not want the College to proceed with an investigation and/or resolution process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the College's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the College to honor that request, the College will offer informal resolution options (included in the procedures), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by the College, and to have the incidents investigated and properly resolved through these procedures. Delays may limit access to evidence or present issues with respect to the status of the parties.

### **9. Determination**

Within five (5) business days of receiving the Investigators' recommendation, the Decision-makers from the Pool review the report and all responses. If the record is incomplete, the Decision-makers may direct a re-opening of the investigation or any additional inquiry they deem necessary.

The recommendation of the Investigators should be strongly considered but is not binding on the Decision-Makers, who make the final determination based on a preponderance of the evidence. The Decision-makers may invite and consider impact statements from the parties if and when determining appropriate sanction(s), or corrective measure(s), if any.

The Decision-makers will inform the Director of Institutional Equity of the final determination, who will then timely provide the parties and their advisers with a written Notice of Outcome to include findings, any sanction(s)/corrective measure(s), and a detailed rationale, delivered simultaneously and without undue delay to the parties.

### **10. Notification of Outcome**

If the Respondent admits to the violation(s), or is found responsible, the Director of Institutional Equity/Decision-makers, after consultation with other appropriate administrators, determine sanction(s) and/or responsive actions, which are promptly implemented in order to effectively stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the discriminatory conduct, both on the Complainant and the community. For students, sanctions based on findings of responsibility will be determined by the Decision-makers in consultation with the Office of Student Conduct. For staff, sanctions based on findings of responsibility will be determined by the Decision-makers in consultation with the Office of Human Resources. For faculty, sanctions based on findings of responsibility will be determined by the Decision-makers in consultation with the Provost.

The Director of Institutional Equity simultaneously, and without significant time delay, shall inform the parties of the determination within five (5) business days of the resolution. This Notification of Outcome is made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties 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, notice is presumptively delivered.

The Notification of Outcome specifies the finding for each alleged policy violation, any sanction(s)/corrective measure(s) that may result which the College is permitted to share pursuant to state or federal law, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law.

The notice will detail when the determination is considered final.

Unless based on an acceptance of violation by the Respondent, the determination may be appealed by either party. The Notification of Outcome also includes the grounds on which the parties may appeal and the steps the parties may take to request an appeal of the findings. More information about the appeal procedures can be found below.

### **11. Sanctions/Corrective Measures**

After a finding of discrimination, harassment, retaliation, or other violation of the Policy, the College will take appropriate remedial action to eliminate the discriminatory, harassing, and/or retaliatory conduct, to prevent its recurrence, and to address its effects on the Complainant and any other affected individual(s). Consistent with this commitment, the College will impose sanction(s)/responsive action(s) if an individual is found to have violated the Policy.

Factors considered when determining any sanction(s)/responsive action(s) may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct that resulted in a finding of responsibility
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Director of Institutional Equity/Decision-makers

The sanction(s) will be implemented as soon as is feasible. The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by outside authorities. Notwithstanding the foregoing, there may be situations in which sanctions are not appropriate or warranted. The College is committed to providing supportive measures to those impacted even if sanctions are not imposed.

#### **a. Student Sanctions**

Sanctions that may be imposed upon students or student organizations, singly or in combination, include, but are not limited to, formal warning, probation, suspension, expulsion, withholding diploma, revocation of degree, organizational sanctions, and other sanctions as the College may deem appropriate.

#### **b. Employee Sanctions/Responsive Actions**

Employees who violate the Policy will be subject to discipline, up to and including termination. Sanctions or responsive actions other than discipline also may be considered as the College deems appropriate.

### **12. Withdrawal or Resignation While Charges are Pending**

#### **a. Students**

Should either party decide not to participate, or advise that they no longer wish to participate, in the Administrative Resolution process, the Director of Institutional Equity may determine that the process should proceed to resolution, absent their participation. Should a student Respondent permanently withdraw from the College, the resolution process may end, as the College no longer has disciplinary jurisdiction over the withdrawn student.

The College may place a hold, prohibit graduation, or take other appropriate actions as necessary to permit the resolution process to be completed. It is possible that a student who withdraws or leaves

while the process is pending may not be able to return to the College. They may also be barred from College property and/or events.

#### **b. Employees**

Should an employee Respondent resign with unresolved allegations pending, the resolution process may end, as the College no longer has disciplinary jurisdiction over the resigned employee. However, the College will continue to address and remedy any systemic issues or concerns that contributed to the alleged violation(s), any ongoing effects of the alleged harassment, discrimination, or retaliation, or any other issue or concern relating to the allegations.

### **13. Appeals**

Any party may appeal the findings only under the grounds described below. All appeals must be submitted in writing to the Director of Institutional Equity within five (5) business days of the delivery of the written finding of the Decision-makers.

A three-member Appeal panel chosen from the Pool will be designated by the Director of Institutional Equity from those who have not been involved in the process previously. One member of the Appeal Panel will be designated as the Chair. Any party may appeal, but appeals are limited to the following grounds:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g., substantiated bias, material deviation from established procedures)
- To consider new evidence, unknown or unavailable during the investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
- The Director of Institutional 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 affected the outcome of the matter.
- 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 that raise the issue of severity of sanctions shall be determined by the Office of Human Resources. Appeals by faculty that raise the issue of severity of sanctions shall be determined pursuant to the procedure set forth in the Faculty Handbook.

When any party requests an appeal, the Director of Institutional Equity will share the appeal request with the other party(ies) or other appropriate persons such as the Investigators, who may file a response within three (3) business days. The other party may also bring their own appeal on separate grounds.

If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within five (5) business days. These responses or appeal requests will be shared with each party. The Appeal Chair/Panel will review the appeal request(s) within five (5) business days of completing the pre-appeal exchange of materials. If grounds are not sufficient for an appeal, or the appeal is not timely, the appeal Chair/Panel shall dismiss the appeal.

When the Appeal Chair/Panel finds that at least one of the grounds for appeal is met by at least one party, additional principles governing the review of appeals include the following:

- Decisions by the Appeal Chair/Panel are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is compelling justification to do so.
- Appeals are not full re-hearings (*de novo*) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the investigation and pertinent documentation regarding the grounds for appeal.
- The Appeal Chair/Panel may not substitute their judgment for that of the original Investigators or Decision-makers merely because they disagree with the finding and/or sanction(s).
- Appeals granted based on new evidence should normally be remanded to the Investigators for reconsideration. Other appeals should be remanded at the discretion of the Appeal Chair/Panel.
- Sanctions imposed as the result of Administrative Resolution are implemented immediately unless the Director of Institutional Equity stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
  - For students: Graduation, study abroad, internships/ externships, etc., do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- All parties will be informed in writing within seven (7) business days of the outcome of the appeal without significant time delay between notifications, and in accordance with the standards for Notice of Outcome as defined above.
- Once an appeal is decided, the outcome is final; further appeals are not permitted, even if a decision or sanction is changed on remand.
- In rare cases when a procedural error cannot be cured by the original Investigators and/or Decision-makers (as in cases of bias), the Appeal Chair/Panel may recommend a new investigation and/or Administrative Resolution process, including a new resolution administrator.
- The results of a new Administrative Resolution process can be appealed once, on any of the four applicable grounds for appeals.
- In cases in which the appeal results in Respondent's reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

#### **14. Long-Term Remedies/Actions**

Consistent with its commitment to take appropriate remedial action to eliminate discriminatory, harassing, and/or retaliatory conduct, to prevent its recurrence, and to address its effects on the Complainant and any other affected individual(s), the College may also consider long-term remedies or actions even in situations where sanctions are not appropriate.

Following the conclusion of the resolution process, and in addition to any sanctions/corrective measures implemented, the Director of Institutional Equity may implement long-term remedies or actions with respect to the parties and/or the campus community to stop the harassment, discrimination, and/or retaliation; remedy its effects; and prevent its reoccurrence.

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

- Referral to counseling and health services

- Referral to the Employee Assistance Program
- Education to the community
- Individualized education or training
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Director of Institutional Equity, long-term remedies may also be provided to the Complainant even if no Policy violation is found. When no Policy violation is found, the Director of Institutional Equity will address any remedial requirements owed by the College to the Respondent.

#### **15. Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions**

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/responsive/corrective action(s), including suspension, expulsion, and/or termination from the College and, if applicable, may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Director of Institutional Equity.

#### **16. Recordkeeping**

Records of all allegations, investigations, resolutions, and hearings will be kept a minimum of seven (7) years, or indefinitely, or as required by state or federal law or College policy, by the Director of Institutional Equity.

#### **17. Accommodation in the Resolution Process**

Lafayette College is committed to providing reasonable accommodations and support to qualified students, employees, or others to ensure equal access to the resolution process at the College. Anyone needing such accommodations or support should contact the Academic Resource Hub for Accessibility Services (for students) or the Office of Human Resources (for employees), who will review the request and, in consultation with the person requesting the accommodation, and the Director of Institutional Equity, determine which accommodations are appropriate and necessary for full participation in the process.

#### **18. Revision**

This process will be reviewed and updated annually by appropriate College officials. The College reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect.

The Director of Institutional Equity may make modifications to these procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Director of Institutional Equity may also vary procedures materially with notice (on the SASH website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure.

The Policy in effect at the time of the offense will apply even if the Policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current Policy.

Procedures in effect at the time the incident is reported will apply to resolution of incidents, regardless of when the incident occurred.

If applicable laws or regulations change in a way that impacts this process, this process will be interpreted in a manner to ensure the College complies with the law.

This process does not create legally enforceable protections beyond the protection of applicable state and federal laws that underlie this process.

The Policy and this process were implemented on January 28, 2025.

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