

SAINT MICHAEL'S COLLEGE
SEXUAL AND INTERPERSONAL MISCONDUCT POLICY

I. Notice of Nondiscrimination

Saint Michael's College does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity it operates, as required by Title IX of the Education Amendments Act of 1972, as amended and its regulations ("Title IX"), including in admission and employment. In addition to violating College policy, sex discrimination may also be unlawful. Inquiries concerning the application of Title IX may be referred to the College's Title IX Coordinator (see below) or to the United States Department of Education [Office for Civil Rights](#).

As an educational institution, Saint Michael's College is committed to promoting, through educational and consciousness-raising activities (including the distribution of this policy), a campus environment where sex discrimination, sex-based harassment, domestic violence, dating violence, sexual exploitation, stalking and related retaliation are recognized as wholly intolerable, and where individuals subjected to such misconduct are provided with avenues of support and redress as appropriate. In accordance with this commitment, the College has developed the following policy and procedures. Other educational and consciousness-raising activities are conducted through the efforts of a few offices that fall under Student Affairs and Academic Affairs scope of service. These offices include Residence Life, Bergeron Wellness Center, The Center for Women and Gender and Student Life.

II. Scope of Policy

This policy and the procedures outlined below ("Policy") apply exclusively to reported conduct that falls within the scope of the Policy and that reportedly occurred on or after August 1, 2024. In accordance with Title IX, this Policy does not apply retroactively. When the College receives a report of sexual harassment, sexual misconduct, domestic violence, dating violence or stalking that reportedly occurred between August 14, 2020 and July 31, 2024, it will apply the [2020-2024 Sexual Harassment/Misconduct, Domestic Violence, Dating Violence and Stalking Policy](#) developed by the College to comply with previously-applicable Title IX regulations. Further, to the extent that this Policy provides for the handling of allegations that fall within the definition of Prohibited Conduct outlined below, such allegations will be handled exclusively as provided in this Policy, rather than any policies or handbook procedures that would otherwise apply to College students, faculty or staff.

To understand how to file a complaint of sex discrimination, sex-based harassment, domestic violence, dating violence, sexual exploitation, stalking and/or related retaliation at Saint Michael's College, please see the section below on Complaint Procedures.

III. Title IX Coordinator

The designated Title IX Coordinator for Saint Michael's College is Dr. Catherine Welch, Associate Dean of Students. The Title IX Coordinator is authorized to coordinate and is

responsible for coordinating the College's efforts to comply with and carry out its responsibilities under Title IX.

The contact information for the College's Title IX Coordinator is:

Catherine Welch, Ed.D., Associate Dean of Students/Title IX Coordinator
Saint Michael's College
One Winooski Place
Colchester, Vermont 05439
(802) 654-2271
cwelch2@smcvt.edu

The Title IX Coordinator or designee is available to meet with students and employees as needed. References throughout this Policy to the Title IX Coordinator should be read as also including designees of the Title IX Coordinator.

IV. Definitions

Complainant means:

- A student or employee who is alleged to have been subjected to conduct that could constitute Prohibited Conduct; or
- A person other than a student or employee who is alleged to have been subjected to Prohibited Conduct and who was participating or attempting to participate in the College's education program or activity at the time of the alleged Prohibited Conduct.

In some cases (such as, for example, cases in which a person involved in an alleged incident of Prohibited Conduct does not wish to participate in the process but the College decides that the alleged misconduct needs to be investigated and addressed), the College may move forward with an investigation and/or related disciplinary proceeding without a designated complainant. In such cases, the College may extend the full rights of a complainant as defined in this Policy to affected parties as deemed appropriate by the College and/or as permitted or required by applicable law. For ease of reference and consistency, the term "complainant" is used hereafter in this Policy to refer to a student or employee who believes that they have been subjected to Prohibited Conduct, or who is believed by another to have been subjected to such conduct, even if the person does not make a report or complaint and decides not to participate in a resolution process under this Policy.

Complaint means an oral or written request to the College that objectively can be understood as a request for the College to investigate and make a determination about alleged Prohibited Conduct.

Confidential Employee means:

- (1) An employee of the College whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this

policy, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;

(2) An employee of the College whom the College has designated as a Confidential Employee under this policy for the purpose of providing services to persons related to Prohibited Conduct. If such an employee also has a duty not associated with providing those services, the employee’s confidential status is only with respect to information received about Prohibited Conduct in connection with providing those services; or

(3) An employee of the College who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee’s confidential status is only with respect to information received while conducting the study.

Consent: For purposes of this Policy and under Vermont law, “consent” means the affirmative, unambiguous, and voluntary agreement to engage in a sexual act, which can be revoked at any time. No person subject to this Policy shall engage in a sexual act with another person:

- without the consent of the other person; or
- by threatening or coercing the other person; or
- by placing the other person in fear that any person will suffer imminent bodily injury; or
- when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring.

No person subject to this Policy shall administer any alcohol, drugs, or other intoxicants to another person without the person’s knowledge or against the person’s will and, while the person is impaired by the alcohol, drugs, or intoxicants, engage in a sexual act with that person.

No person subject to this Policy shall engage in a sexual act with another person when the other person is incapable of consenting to the sexual act due to substantial impairment by alcohol, drugs, or other intoxicants and that condition is known or reasonably should be known by the person.

- “Incapable of consenting” as used in this Policy means the other person:
 - (A) is incapable of understanding the nature of the conduct at issue;
 - (B) is physically incapable of resisting, declining participation in, or communicating unwillingness to engage in the conduct at issue; or
 - (C) lacks the mental ability to make or communicate a decision about whether to engage in the conduct at issue.
- A person may be incapable of consenting due to the effects of alcohol, drugs or other intoxicants, or due to a physical, mental or other condition.

Responsible, respectful communication is a standard of behavior that the College expects members of its community to uphold. **It should be understood by all that silence, passivity or lack of resistance by a partner to sexual activity cannot be assumed to indicate consent.** Lack of consent may be shown without proof of resistance, and submission resulting from the use of force, threat of force, or placing another person in fear does not constitute consent.

It is the responsibility of those who initiate and/or engage in sexual activity to be clear that consent as defined in this Policy is given before proceeding with further sexual activity. It should be noted that ignorance of the policy noted above, or the intoxication of the respondent, will in no way be considered an excuse for violating the policy. Determinations regarding whether a person is responsible for violating this Policy will be made by considering whether the person knew, or a reasonable, unimpaired person in their circumstances should have known, that the other person was not consenting to or was incapable of consenting to the sexual conduct at issue or was asleep, unconscious, or otherwise unaware that the sexual act was occurring.

Days as used in this policy means calendar days, unless specifically provided otherwise. If a deadline imposed by this policy or the College falls on a weekend, the deadline will be extended to the immediately following Monday.

Education Program or Activity means all of the operations of the College. For purposes of this Policy, conduct that occurs under the College's education program or activity includes but is not limited to conduct that occurs in a building owned or controlled by a student organization that is officially recognized by the College, and conduct that is subject to the College's disciplinary authority.

Informal Resolution is a non-investigative approach to a report or complaint designed to address Prohibited Conduct through means that do not involve a formal investigation and resolution process.

Formal Resolution is an investigative approach to a complaint which involves formal investigation and resolution procedures that are outlined below.

Party means a complainant or respondent.

Pregnancy or related conditions means:

- Pregnancy, childbirth, termination of pregnancy, or lactation;
- Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Preponderance of the Evidence is a standard of proof that considers whether it is more likely than not that certain facts at issue occurred, and/or whether Prohibited Conduct occurred.

Prohibited Conduct¹:

This Policy prohibits the following forms of misconduct, collectively referred to throughout the policy as “Prohibited Conduct”:

A. Sex-Based Discrimination

Sex-Based Discrimination means actions or policies that have the purpose or effect of treating a person differently and adversely because of their sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity.

B. Sex-Based Harassment

Sex-Based Harassment is a form of sex discrimination which, with one exception,² is defined as sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

1. *Quid pro quo harassment.* An employee, agent, or other person authorized by the College to provide an aid, benefit, or service under the College’s education program

¹ The definitions of dating violence, domestic violence, sexual assault, and stalking used in this Policy are consistent with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), as amended effective 2014, Title IX, and 2024 Title IX regulations. In its primary prevention and awareness programs for incoming students and new employees, as well as in its primary prevention and awareness programs for students and employees, the College will include the definitions of dating violence, domestic violence, sexual assault, and stalking under the criminal law of Vermont. However, the College utilizes its own definitions of these prohibited behaviors, which are consistent with the Clery Act, Title IX and the 2024 Title IX regulations as set forth below, for purposes of this Policy, and determines responsibility for violations of this Policy through its own procedures and standards of proof (i.e. by a preponderance of the evidence standard), not through the procedures or standards of proof employed in the criminal justice system.

² The exception is that, under applicable provisions of Vermont law, an additional standard for prohibited hostile environment harassment applies in the specific context of an employee complainant who is working in a Saint Michael’s program or activity in Vermont. Under this standard: to “harass” means to engage in unwelcome conduct based on an employee complainant’s protected characteristic(s) that interferes with the employee’s work or creates a work environment that is intimidating, hostile or offensive. In determining whether conduct constitutes harassment: (A) The determination will be made on the basis of the information gathered in an investigation as a whole, according to the totality of the circumstances, and a single incident may constitute unlawful harassment; (B) Incidents that may be harassment will be considered in the aggregate with varying types of conduct and conduct based on multiple characteristics viewed in totality rather than in isolation; (C) Conduct may constitute harassment, regardless of whether: (i) the complaining employee is the individual being harassed; (ii) the complaining employee acquiesced or otherwise submitted to or participated in the conduct; (iii) the conduct is also experienced by others outside the protected class involved in the conduct; (iv) the complaining employee was able to continue carrying out the employee’s job duties and responsibilities despite the conduct; (v) the conduct resulted in a physical or psychological injury; or (vi) the conduct occurred outside the workplace. Harassment need not be severe or pervasive to constitute prohibited harassment under this standard, but behavior that a reasonable employee with the same protected characteristic(s) would consider to be a petty slight or trivial inconvenience will not constitute harassment in violation of this Policy.

or activity explicitly or impliedly conditioning the provision of such an 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 (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- The degree to which the conduct affected the complainant's ability to access the College's education program or activity;
- The type, frequency, and duration of the conduct;
- The parties' ages, roles within the College's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and
- Other sex-based harassment in the College's education program or activity.

Examples of sexual harassment include, but are not limited to the following, when such acts or behavior come within the above definition:

- Touching or grabbing any part of a person's body (in a manner that is sexual or offensive on the basis of sex but that does not constitute "fondling", which is a form of Sexual Assault as defined above and below) after that person has indicated, or it is known or should be known, that such physical contact is unwelcome;
- Continuing to ask a person to socialize on or off-campus when that person has indicated that they are not interested;
- Displaying or transmitting sexually suggestive pictures, objects, cartoons, messages, web links or posters if it is known or should be known that the behavior is unwelcome;
- Continuing to write sexually suggestive notes or letters if it is known or should be known that the person does not welcome such behavior;
- Referring to or calling a person a sexualized name if it is known or should be known that the person does not welcome such behavior;
- Regularly telling sexual jokes or using sexually vulgar or explicit language in the presence of a person if it is known or should be known that the person does not welcome such behavior;
- Communicating derogatory or provoking remarks about or relating to a person's sex, gender identity, pregnancy or related conditions, or sexual orientation;
- Directing harassing acts or behavior against a person on the basis of their sex, gender identity, pregnancy or related conditions, or sexual orientation; or

- Off-campus conduct which falls within the above definition and affects a person’s on-campus educational, shared living, or work environment.

Saint Michael’s College recognizes that the protection of free and open speech and the open exchange of ideas is important to any academic community. This recognition is therefore an important element in the objective “reasonable person” standard used in judging whether sexual harassment has occurred. This Policy is meant neither to proscribe nor to inhibit discussion, in or out of the classroom, of complex, controversial or sensitive matters, when in the judgment of a reasonable person they arise appropriately and with respect for the dignity of others.

Saint Michael’s College also recognizes, however, that verbal conduct can be used specifically to intimidate or coerce and to inhibit genuine discourse, free inquiry and learning. Such abuses are unacceptable. If someone believes that another’s speech or writing is offensive, wrong or hurtful, they are encouraged to express that judgment in the exercise of their own free speech or to seek redress under this Policy or other College policies as appropriate.

3. Specific offenses.

Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, which includes:

- The carnal knowledge of a person, without the consent of that person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;
- Oral or anal sexual intercourse with another person, without the consent of that person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;
- To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of that person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;
- Fondling, that is, the touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity; for purposes of this definition, “private body parts” means breasts, buttocks, groin and genitals, including over clothing.
- Incest, that is, nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; and

- Statutory Rape, that is, nonforcible sexual intercourse with a person who is under the statutory age of consent.
4. **Dating violence**, meaning violence committed by a person:
- Who is or has been in a social relationship of a romantic or intimate nature with the complainant; and
 - Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The parties' statements;
 - The length of the relationship;
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship.
5. **Domestic violence**, meaning felony or misdemeanor crimes committed by a person who:
- Is a current or former spouse or intimate partner of the complainant under the family or domestic violence laws in the jurisdiction where the conduct occurs, or a person similarly situated to a spouse of the complainant;
 - Is cohabitating, or has cohabitated, with the complainant as a spouse or intimate partner;
 - Shares a child in common with the complainant; or
 - Commits acts against a youth or adult complainant who is protected from those acts under the family or domestic violence laws in the jurisdiction where the conduct occurs; or
6. **Stalking**, meaning engaging in a course of conduct directed at a specific person on the basis of sex that would cause a reasonable person to:
- Fear for the person's safety or the safety of others; or
 - 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.

7. **Non-Sex-Based Stalking**, meaning stalking as defined immediately above that is directed at a specific person, but not on the basis of sex.

8. **Sexual exploitation** occurs when a person takes sexual advantage of another person for the benefit of anyone other than that other person without that other person's consent. Examples of behavior that could constitute sexual exploitation include but are not limited to the following:

- Recording or capturing through any means images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nudity without that person's consent;
- Distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nudity, if the individual distributing the images or audio knows or should have known that the person(s) depicted in the images or audio did not consent to such disclosure and object(s) or would object to such disclosure;
- sexually exploitive physical contact or sexually exploitive conduct that does not otherwise constitute sex-based harassment or sexual assault as defined in this Policy; or
- Surreptitiously viewing another person's sexual activity, intimate body parts, or nudity in a place where that person would have a reasonable expectation of privacy, without that person's consent, if the individual viewing the other person's or persons' sexual activity, intimate body parts, or nudity in such a place knows or should have known that the person(s) being viewed would object to that.

9. **Retaliation** means intimidation, threats, coercion, or discrimination against any person by the College or an individual Respondent, for the purpose of interfering with any right or privilege secured by this Policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and/or the voluntary informal resolution processes described in this Policy; provided, however, that if the College decides to require an employee or other person authorized to provide aid, benefit, or service under the College's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding or hearing under this policy, that will not constitute retaliation. Retaliation prohibited by this Policy includes retaliation by a respondent or respondents against a peer (i.e., student-student or employee-employee retaliation).

Relevant means related to the allegations of Prohibited Conduct under investigation as part of procedures described below. Questions are relevant when they seek evidence that may aid in showing whether alleged Prohibited Conduct occurred, and evidence is relevant when it may aid a decisionmaker in determining whether alleged Prohibited Conduct.

Remedies means measures provided, as appropriate, to a complainant or any other person the College identifies as having had their equal access to the College's education program or activity limited or denied by Prohibited Conduct. These measures are provided to restore or preserve that person's access to the College's education program or activity after the College determines that Prohibited Conduct occurred.

Report means providing information, orally or in writing, to the Title IX Coordinator or a Responsible Employee regarding conduct that objectively can be viewed as Prohibited Conduct, under circumstances where the person providing such information wishes to provide it, but does not wish at least at the time of the Report to request the College to investigate and make a determination about alleged Prohibited Conduct. Reports may be made to seek Supportive Measures without making a Complaint as defined above. Reports can be made by a person who may have experienced Prohibited Conduct, or by another person.

Respondent means a person who is alleged to have violated the College's prohibition on Prohibited Conduct. Students and employees may be respondents, as may covered third parties, to the extent the College elects to address reports regarding a covered third party through this Policy, rather than otherwise at the College's discretion. A covered third party is a person who is not a student or employee of the College, but who is someone over whom the College has some measure of control that would allow the College to take some form of action against them if it is determined that they engaged in Prohibited Conduct (e.g., a vendor or volunteer). Such individuals will be provided rights under this Policy to the extent the College elects to do so. If the College receives a complaint that a College policy or practice has the purpose or effect of discriminating on the basis of sex, the Title IX Coordinator may initiate an investigation of that complaint without naming an individual respondent.

Responsible Employee means all College faculty, staff, administrators, and student employees who have a responsibility for student welfare and who are not defined above and identified below as Confidential Employees. Responsible Employees are required to promptly report any information they become aware of about conduct that reasonably may constitute Prohibited Conduct to the Title IX Coordinator.

Sanctioning Officer means a person who has been designated by the College to determine and impose appropriate sanctions in matters that involve allegations of sex-based harassment where one or more of the parties is a student, and where a decisionmaker decides after a live hearing that the respondent is responsible for Prohibited Conduct.

Supportive measures means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- Restore or preserve that party's access to the College's education program or activity, including measures that are designed to protect the safety of the parties or the College's educational environment; or
- Provide support during the College's grievance procedures or during a voluntary informal resolution process.

V. Coordination with Other Policies

Where alleged conduct by a student respondent that is reported in connection with a reported violation of this Policy also involves potential violations of the Saint Michael's College Student Code of Conduct that would not constitute Prohibited Conduct as defined in this Policy, the College may, at its discretion, choose to investigate and resolve such other potential Student Code of Conduct violations through an investigation under the procedures set forth in this Policy, rather than the procedures set forth in the Student Code of Conduct.

Where alleged conduct by an employee or covered third party respondent that is reported in connection with a reported violation of this Policy also potentially involves violations of Saint Michael's College's expectations for employee or covered third party behavior, the College may address such reported violations of other behavioral expectations within or outside the procedures provided below, as determined at the College's discretion.

VI. Separate Handling of Other Policy Violations by Reporting Students

The College's primary goals when responding to reports and complaints of Prohibited Conduct such as sex discrimination, sex-based harassment, domestic violence, dating violence, sexual exploitation, stalking or related retaliation matters involving students is to promote student safety, and to address Prohibited Misconduct and prevent it from recurring. A student should not hesitate to report or make a complaint about Prohibited Conduct due to a concern that the investigation process may indicate that they were under the influence of alcohol or drugs at the time of the incident(s). Violations of other College policies will be handled separately from reports and complaints of Prohibited Conduct, and the relatively minor sanctions that may result from a violation of other College policies under the circumstances should not dissuade a student from reporting relatively serious incidents of Prohibited Conduct. The College may take disciplinary action if it determines that the conduct giving rise to the alleged ancillary policy violation placed or threatened to place the health or safety of another person at risk. This policy will not be construed to limit counter-complaints made in good faith or to prohibit action as to a report made in good faith.

The use of alcohol or drugs never makes a complainant at fault for such misconduct.

VII. Confidentiality

The College understands that individuals who have concerns about Prohibited Conduct may look for assurances of confidentiality.

The College will protect the confidentiality of complainants and respondents to the extent practicable. When the College completes publicly available recordkeeping, including disclosure

of information as required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), it will not include personally identifying information about parties. The Title IX Coordinator or designee will work with the Director of the Department of Public Safety or designee to determine what information about a covered incident should be disclosed and to whom this information will be disclosed. Decisions about disclosure will be made by considering factors such as, but not limited to, the privacy interests of the parties and the potential need for disclosure in order to effectuate supportive measures and Clery Act obligations, including but not limited to the obligation to provide timely warnings in a manner that will not identify complainants.

A. Priests, Personal Counselors, and Health Services Professionals as Confidential Employees

Saint Michael’s College has designated individuals in the following positions as Confidential Employees who can serve as confidential resources for students who have experienced or wish to discuss Prohibited Conduct on a confidential basis:

- Saint Michael’s College Clergy in Edmundite Campus Ministry (contact: Fr. Michael Carter, Director of Edmundite Campus Ministry, 802-654-2333);
- Professional personal counselors (contact: Kathy Butts, Director of Personal Counseling, 802-654-2234);
- Health services staff (contact: Anna Leavey, Director of Health Services 802-654-2234).

These professionals respect and protect confidential communications from students that are shared within the scope of the professionals’ confidential roles, to the extent that they are able to do so under applicable law. These professionals may have the responsibility to disclose otherwise-privileged information appropriately when they perceive an immediate and/or serious threat to any person or property. In addition, medical and mental health professionals are required by law to report any allegation of sexual assault of a person under age 18. These Confidential Employees will also disclose otherwise-privileged information with the consent of the person who holds the privilege.

If an individual discloses information to a Confidential Employee within the scope of their roles as such about conduct that reasonably may constitute Prohibited Conduct, such employees will and must explain to the person:

- The employee’s status as confidential for purposes of this Policy, and that they will not report personally-identifiable information about conduct that reasonably may constitute Prohibited Conduct to the Title IX Coordinator without the individual’s permission;
- How to contact the Title IX Coordinator and how to make a complaint of Prohibited Conduct; and
- That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under this Policy.

In accordance with the 2024 Title IX regulations, the College will not access, consider, disclose, or otherwise use a party's privileged records or require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

B. Seeking Support From Other College Employees

Other College employees are discreet and strive to respect reasonable privacy expectations to the extent practicable, but they are not able to guarantee confidentiality. General inquiries or questions about this Policy may remain private, and the College will strive to protect the privacy of individuals to the extent it can while maintaining its obligations to uphold relevant policies and regulations and/or to take reasonable steps to promote the safety of members of the College community, as detailed further below. When confidentiality is requested, the College will evaluate the request for confidentiality in the context of its responsibility to provide a safe and nondiscriminatory environment for all students, faculty and staff and to promote the health, safety, or well-being of members of the Saint Michael's community.

Discreet but not strictly confidential College employees who can serve as resources for individuals who may have experienced Prohibited Conduct include, for example: Catherine Welch, Associate Dean of Students/Title IX Coordinator (802-654-2271), Residence Directors and Resident Assistants; Academic Advisors; Non clergy staff in Campus Ministry; Assistant and Associate Deans of Students; Public Safety (802-654-2000); and Dawn Ellinwood, Vice President for Student Affairs/Dean of Students (802-654-2566).

C. "Responsible Employees"

As noted above, "Responsible Employee" means all College faculty, staff, administrators, and student employees who have a responsibility for student welfare and who are not defined above as Confidential Employees. Responsible Employees are required to promptly report any information they become aware of about conduct that reasonably may constitute Prohibited Conduct to the Title IX Coordinator.

When an individual tells a Responsible Employee about an incident of Prohibited Conduct, the Responsible Employee must report to the Title IX Coordinator all relevant details about the alleged Prohibited Conduct shared by the individual which, ideally, will include the names of the individual and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident. Such reports must, absent extenuating circumstances, be made within 5 calendar days of when the Responsible Employee learns of the information in question. A Responsible Employee's failure to report information to the Title IX Coordinator as required by this section is a violation of College policy, and may result in discipline or termination of employment.

All regular full and part-time employees who are not identified above as Confidential Resources are Responsible Employees.

Before an individual reveals any information to a Responsible Employee, the employee should ensure that the individual understands the employee's reporting obligations and, if the individual wants to maintain confidentiality, direct the individual to Confidential Resources.

D. Off-Campus Community Resources

Off-campus community resources that can provide support to individuals who have experienced Prohibited Conduct include but are not limited to:

- Hope Works (802) 863-1236
- Colchester Police Department (802) 264-5556
- Chittenden Unit for Special Investigations (802) 652-6800
- Vermont State Police (802) 254-2382

VIII. Pregnancy and Related Conditions

A. Nondiscrimination on the Basis of Pregnancy and Related Conditions

In considering a person for admission or in making any offer of admission, the College will treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical condition. The College will not make pre-admission or pre-employment inquiry as to the marital status of an applicant, including whether an applicant is “Miss or Mrs.” The College may ask an applicant to self-identify their sex, but only when asking this question of all applicants. The response will not be used as a basis for discrimination.

The College will not adopt or apply any policy, practice, or procedure, or take any employment action, concerning the current, potential, or past parental, family, or marital status of a student, employee, or applicant that treats persons differently on the basis of sex, or which is based upon whether an employee or applicant for employment is the head of household or principal wage earner in an employee’s or applicant’s family unit. The College will not discriminate against, establish or follow any policy, practice, or procedure that discriminates against, or exclude from employment any person on the basis of current, potential, or past pregnancy or related conditions.

B. Voluntary Student Participation in Separate Education Programs or Activities

The College may offer students voluntary participation in a separate portion of a College program or activity that is comparable to what is offered to students who are not experiencing pregnancy or related conditions.

C. No Requirement of Medical Certification for Student Participation

The College will not require a student, due to pregnancy or related conditions, to provide certification from a physician or other licensed healthcare provider that the student is physically able to participate in classes, programs, or student activities unless necessary, required for all participating students, and not used as a basis for discrimination.

D. Leaves of Absence

1. Student Leaves of Absence

A student experiencing pregnancy or related conditions is allowed a voluntary leave of absence to cover, at minimum, the period of time deemed medically necessary by the student's physician or other licensed healthcare provider. If other College leave policy allows a greater span of time than this period, the student is permitted to take leave under that policy instead. Upon return, the student will be reinstated to the academic and, as practicable, extracurricular status that the student held when the leave began.

2. Employee Leaves of Absence

In the event a College employee is not otherwise qualified for a leave, or if no leave or insufficient leave is available, pregnancy or related conditions is a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

E. Lactation-Related Accommodations for Students and Employees

The College will provide reasonable break time for a student or employee to express breast milk or breastfeed as needed, and will make available a lactation space, other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a student or employee for expressing breast milk or breastfeeding as needed.

F. Student and Employee Rights to Reasonable Modifications or Temporary Adjustments

Students are entitled to reasonable modifications to College policies, practices, or procedures because of pregnancy or related conditions on an individualized and voluntary basis depending on the student's needs when necessary to prevent discrimination and ensure equal access, unless the modification would fundamentally alter a College program or activity; these may include, but are not limited to: breaks to attend to health needs, including for expressing breast milk or breastfeeding; excused absences to attend medical appointments; access to online instruction; changes in schedule or course sequence; extensions of time for coursework; rescheduling of tests and examinations; counseling; changes in physical space or supplies; or elevator access. Such modifications will be comparable to the treatment of other temporary disabilities or conditions. The College will consult with the student regarding what reasonable modifications are necessary for the student.

The College will not require students to provide supporting documentation unless necessary and reasonable to determine reasonable modifications. The College will not require documentation: when the need for the specific modification is obvious; when the student has previously provided sufficient supporting documentation; when the reasonable modification relates to drinking water, using a bigger desk, and/or the need to sit, stand, or take breaks to eat, drink, or use the restroom; when the student has lactation needs; or when the requested specific modification is available to

students for reasons other than pregnancy or related conditions without the submission of supporting documentation.

With respect to employees, the College will treat pregnancy or related conditions as it would any other temporary disability or condition for all job-related purposes, including, where appropriate, the provision of temporary adjustments.

G. Requirement to Provide Information to Students Experiencing Pregnancy or Related Conditions

When any College employee (including both Responsible Employees and Confidential Employee) is informed by a student of that student's pregnancy or related conditions, the employee must, unless the Employee reasonably believes that the Title IX Coordinator has already been notified of the student's pregnancy or related conditions, promptly inform the student of the Title IX Coordinator's contact information and that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure equal access to the College's program or activity.

IX. Emergency Removal and Administrative Leave

A. Emergency Removal of Students

Where there is an imminent and serious threat to the health or safety of any person arising from the allegations of Prohibited Conduct, the College can remove a student respondent from its education program or activity on an emergency basis, and issue any necessary related no-trespass and no-contact orders. The Title IX Coordinator will make such a removal decision based on an individualized safety and risk analysis, in consultation as deemed necessary with other College personnel, departments, and/or teams. If the College makes such a decision, the student respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal. Such challenges will be reviewed and decided by a College official, appointed by the College's President or designee, who was not involved in making the emergency removal decision. The student respondent should initiate the challenge by providing to the appointed College official a written statement that outlines the bases on which they challenge the decision.

B. Administrative Leave for Employees

The College always maintains the discretion to place employee respondents, including student-employee respondents, on paid or unpaid administrative leave from employment responsibilities during the pendency of an investigation and/or resolution process.

X. Reporting and Initial Considerations Regarding Reports and Complaints of Prohibited Conduct

The reporting opportunities and initial considerations outlined below apply to reports and complaints of Prohibited Conduct as defined above, whether those reports or complaints involve reported Prohibited Conduct directed against students, employees or other complainants by students, employees or third parties over whom the College has some measure of control.

A. Reporting by Responsible Employees and Others

As emphasized above, Responsible Employees (that is, all College employees who are not specifically designated by the College as Confidential Employees) must promptly report any information they become aware of about conduct that reasonably may constitute Prohibited Conduct to the Title IX Coordinator.

Any student or other person who wishes to report information about conduct that may constitute Prohibited Conduct is encouraged to contact, through the means of communication identified below, Public Safety, the Title IX Coordinator, the Dean of Students, Assistant/Associate Deans of Students, Resident Directors, Academic Advisors, Counselors, Human Resources staff, College Administrators, and/or local law enforcement officials.

Any person may report concerns or complaints about sexual harassment/misconduct, dating violence, domestic violence, sexual assault and/or stalking 24 hours per day, 7 days per week by email to the Title IX Coordinator, Catherine Welch, Ed.D., at cwelch2@smcvt.edu, during business hours by phone to the Title IX Coordinator at (802) 654-2271, or 24/7 to Campus Public Safety at (802) 654-2374 or (802) 654-2000.

Individuals with a disability may request accommodations to ensure their full and equal participation in reporting incidents of Prohibited Conduct, as well as the investigatory and adjudicatory process under this Policy. Requests for reasonable accommodations in connection with the reporting, investigatory and/or adjudicatory process are determined on an individual basis by the Title IX Coordinator, in consultation with the ADA/Section 504 Coordinator as appropriate.

When a student or employee reports to the College that they have been subjected to sexual assault, domestic violence, dating violence or stalking as defined above, the College will, in accordance with the Clery Act, provide them with written notice of their rights and options, which include: (i) to be assisted by campus authorities if reporting a crime to local law enforcement; (ii) change academic, living, transportation and or working situations or protective measures; (iii) obtain or enforce a no contact order or restraining order; (iv) have a clear description of the College's disciplinary process and know the range of possible sanctions; and (v) receive contact information about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student and financial aid, and other services available both on-campus and in the community. More information about these issues is provided throughout this Policy.

B. Contacting Law Enforcement and Orders of Protection

In addition to (or instead of) the College's processes, any complainant who wishes to report a complaint of Prohibited Conduct that may also constitute a crime may and should also pursue criminal charges with local, state, or federal law enforcement agencies.

The Office of Student Life, Public Safety, Human Resources Office, Personal Counseling and Health Services will offer to, and upon request will, assist complainants in contacting law enforcement agencies. This action may be taken regardless of whether an individual chooses to make a complaint to the College. For their own part, a complainant may choose to notify such

agencies with or without assistance from the College, or may choose not to notify such authorities. The procedures for making a police report will vary depending upon the particular law enforcement agency involved, but in general, making a police report will involve meeting with law enforcement officers for an interview, the collection of evidence, and follow-up communications with law enforcement as their investigation proceeds.

Individuals who are being or who may have been subjected to some forms of Prohibited Conduct may have the right to obtain orders of protection, restraining orders and/or relief from abuse orders from Vermont courts. The College will support complainants if they wish to have the College's assistance in making contact with law enforcement authorities and other external resources to seek such orders.

The College will respect such orders to the extent applicable. In addition, the College can also impose no-contact conditions on students, employees and third parties over which it has some measure of control. The College will inform complainants of their options in this regard.

C. Medical Care and Preservation of Evidence

Whether or not a complainant decides to pursue criminal charges or a complaint at the College, they are encouraged to immediately seek any necessary medical care after an incident of Prohibited Conduct, as applicable, and to seek help from appropriate law enforcement, medical or College personnel. Even if a complainant is unsure initially whether they will want to pursue criminal charges or seek a protection order, it is important that they preserve all possible evidence in case they decide at some point to do so.

Therefore, complainants should refrain from changing clothes, showering or otherwise changing their physical state after an incident, until after they have consulted with medical or law enforcement personnel about how to best preserve evidence.

In cases that have involved sexual contact, a forensic examination by a Sexual Assault Nurse Examiner (S.A.N.E.) is the best way to preserve potentially valuable evidence. S.A.N.E. examinations are available at the University of Vermont Medical Center's Emergency Department, which is located at 111 Colchester Avenue, Burlington, Vermont 05401 (802) 847-0000. The College will assist an individual who would like to be transported to the UVM Medical Center for a S.A.N.E. examination. Having a S.A.N.E. examination does not require an individual to file a police report or pursue criminal prosecution or a protection order, but having an examination can be very important if the individual decides at a later time to pursue any of those options.

D. Supportive Measures

It is not necessary to file a complaint, participate in an adjudication process, or file a criminal complaint in order to request supportive measures from the College. Supportive measures are defined for purposes of this policy as individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- Restore or preserve that party’s access to the College’s education program or activity, including measures that are designed to protect the safety of the parties or the College’s educational environment; or
- Provide support during the College’s investigative resolution process or voluntary informal resolution process.

Upon receipt of a report of Prohibited Conduct, the College will consult initially with the complainant and provide reasonably available and appropriate supportive measures. If applicable and at the appropriate time, the College will also consult with the respondent regarding supportive measures. The College may, as appropriate, modify or terminate supportive measures at the conclusion of any investigative resolution or voluntary informal resolution process, or may continue them in the same or modified form beyond that point. While some supportive measures may only be applicable and appropriate during a resolution process, supportive measures may be provided at any time, regardless of whether a resolution process has been initiated or completed.

Supportive measures may include but are not limited to:

- counseling;
- extensions of deadlines and other course-related adjustments;
- notices instructing the parties not to contact each other (i.e., “no contact orders”);
- training and education programs related to Prohibited Conduct;
- academic accommodations, such as access to tutoring, rescheduling of exams or assignments, and/or the ability to drop a course without penalty;
- modifications of work schedules, change in work locations, changing working arrangements, or providing other employment accommodations as appropriate;
- residential accommodations, including but not limited to arranging for new housing, or providing temporary housing options, as appropriate;
- leaves of absence;
- increased security and monitoring of certain areas of the campus;
- assistance setting up initial appointments for counseling and/or medical services;
- providing an escort and other safety planning steps;
- assistance in requesting long-term academic accommodations through the Office of Access and Learning Accommodation, if the complainant qualifies as an individual with a disability;

- assistance in evaluating implications for financial aid, immigration or visa status;
- referral to resources that can assist in obtaining a civil order of protection;
- other changes in class, work, housing or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative;
- changes to another party's schedule, housing, academic arrangements and/or participation in College education programs or activities that do not unreasonably burden that party; and/or
- other measures tailored to the involved parties.

Parties seeking supportive measures should direct their request to the Title IX Coordinator, who will refer the individual to other resources as appropriate. Requests will be evaluated and responded to by the Title IX Coordinator or designee after consultation, as needed, with other campus personnel whose cooperation may be necessary or helpful in evaluating or providing requested measures. The availability of supportive measures will be determined by the specific circumstances of each report. The Title IX Coordinator will consider a number of factors in determining which measures to take, including but not limited to the needs of the party seeking supportive measures; the severity or pervasiveness of the alleged conduct; any continuing effects on the parties; whether the complainant and the respondent share the same residence hall, academic course(s), or job location(s); and whether judicial measures have been taken to protect the complainant (e.g., protective orders or relief from abuse orders). The Title IX Coordinator is ultimately responsible for coordinating the effective implementation of supportive measures.

The Title IX Coordinator may consult with the ADA/Section 504 Coordinator as appropriate regarding the provision of supportive measures to individuals with a disability.

The College will maintain as confidential any supportive measures provided to complainants and/or respondents, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. As such, the College may need to disclose some information about the individual to a third party to provide the necessary supportive measures in a timely manner. The Title IX Coordinator or designee is/are typically responsible for determining what information should be disclosed and to whom it should be disclosed. The decision to disclose information will be made after careful consideration of possible alternatives to disclosure and/or limiting the information provided to the third party as much as possible without compromising the College's ability to provide the supportive measures. The College will work in good faith to implement the requirements of judicially-issued protective orders and similar orders, to the extent that doing so is within its authority.

Requests for supportive measures may be made by either party to the Title IX Coordinator. The Title IX Coordinator is responsible for ensuring the implementation of supportive measures and coordinating the College's response with the appropriate offices on campus.

The Title IX Coordinator has the discretion to provide, deny, modify, or terminate any supportive measure based on all available information and is available to meet with a

complainant or respondent to address any concerns about the provision of supportive measures. The College will provide a complainant or respondent with a timely opportunity to initiate a supportive measure review process, through which a party may seek, from an impartial College employee or designee, modification or reversal of the Title IX Coordinator's decision to provide, deny, modify, or terminate supportive measures applicable to them. The question for consideration in such reviews will be whether the supportive measure under review is consistent or inconsistent with the definition of supportive measure stated above. Reviewing officials will have the authority to modify or reverse decisions related to supportive measures, if they conclude that the decision under review is inconsistent with the definition of supportive measure stated above. Parties may also seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.

All individuals are encouraged to report to the Title IX Coordinator any concerns about the failure of another to abide by any restrictions imposed through supportive measures. In the event of an immediate health or safety concern, individuals should contact 911 immediately. The College will take prompt action to enforce a previously implemented measure, and disciplinary penalties can be imposed for failing to abide by a College-imposed supportive measure.

E. Initial Communication with the Complainant

If a report or complaint alleges conduct that would, if proved, constitute Prohibited Conduct, the Title IX Coordinator will:

- promptly contact the complainant to discuss the availability of supportive measures as defined above;
- consider the complainant's wishes with respect to supportive measures;
- inform the complainant of the availability of supportive measures with or without the filing of a formal complaint;
- provide to the complainant a written notice of rights and options, as described above and as appropriate; and
- explain to the complainant the College's formal resolution and informal resolution processes.

F. Initial Assessment

The Title IX Coordinator will begin an initial assessment within five (5) calendar days of receiving the report or complaint unless there are extenuating circumstances. The first step of the initial assessment will usually be a preliminary meeting with the complainant, as described above. The purpose of the preliminary meeting is to gain a basic understanding of the nature and circumstances of the report. It is not intended to be a full review. At this meeting the complainant will be provided with any additional necessary information about resources, procedural options, and supportive measures.

As part of the initial assessment the Title IX Coordinator will generally and as appropriate to the circumstances:

- Assess the nature and circumstances of the allegation;
- Notify the complainant of the right to contact law enforcement and seek medical treatment;
- Notify the complainant of the importance of preserving evidence;
- Ensure the report is entered into the College's daily crime log, as appropriate;
- Assess the reported conduct for the need for a timely warning under the Clery Act;
- Provide the complainant with information about on- and off-campus resources;
- Notify the complainant of the range of supportive measures;
- Provide the complainant with an explanation of the procedural options, including informal resolution and formal resolution;
- Discuss the complainant's expressed preference for the manner of resolution and any barriers to proceeding; and
- Explain the College policy prohibiting retaliation.

Options typically available to a complainant at the conclusion of the initial assessment include:

- Informal Resolution as described below;
- Formal Resolution as described below; or
- Declining to move forward with an informal or formal resolution process.

If the complainant declines to move forward with the complaint process, the Title IX Coordinator will as appropriate explain to the complainant that there may be circumstances in which the College is unable to abide by requests for confidentiality or inaction. In certain circumstances the College may decide that it needs to investigate the complainant's allegations and to take appropriate responsive measures even where the complainant does not wish for the College to do so.

In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator will make a fact-specific determination regarding whether to initiate an investigative resolution process. To make this determination, the Title IX Coordinator will consider, at a minimum, the following factors: the complainant's request that the College not proceed with the initiation of a complaint; the complainant's reasonable safety concerns; the risk that additional acts of misconduct would occur if a complaint is not initiated; the severity of the alleged misconduct,

including whether the misconduct, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the misconduct and prevent its recurrence; the age and relationship of the parties, including whether the respondent is an employee; the scope of the alleged misconduct, including information suggesting a pattern, ongoing misconduct, or misconduct alleged to have impacted multiple individuals; the availability of evidence to assist a decisionmaker in determining whether misconduct occurred; and whether the College could end the alleged misconduct and prevent its recurrence without initiating a complaint.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents the College from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate or continue an investigative resolution process as described below. The College will seek to respect the request of the complainant and where it cannot do so, it will consult with the complainant and keep the complainant informed about the chosen course of action. In such situations, prior to initiating or continuing investigative resolution, the Title IX Coordinator will notify the complainant and appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures.

The College will not compel the complainant to participate in an investigation where the complainant has requested that the College not pursue the investigation. In all cases, the final decision on whether, how, and to what extent the College will maintain the complainant's confidentiality or conduct an investigation, and whether other measures will be taken in connection with a report of a violation of this policy, rests with the Title IX coordinator.

The College's ability to investigate and pursue disciplinary action may be limited when the identity of the respondent is unknown or when a complainant requests that their identity not be revealed to the respondent.

If the Title IX Coordinator does not initiate or continue investigative resolution, they will take other appropriate, prompt, and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual complainant, if any, to ensure that the misconduct does not continue within the College's education program or activity.

The College endeavors to complete the initial assessment process within 14 days from the date when the Title IX Coordinator receives notice of the alleged or reported Prohibited Conduct, unless that timeframe is extended for good cause as discussed above.

G. Relationship to Other Proceedings

The initiation of a formal resolution process under this Policy is independent of any criminal investigation or proceeding, and the College will not wait for the conclusion of any criminal investigation or criminal proceeding before commencing its own investigation (though it may pause the initiation of its process briefly at the request of law enforcement) or implementing supportive measures.

H. Dismissals

The College may dismiss a complaint if:

- The College is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in the College's education program or activity and is not employed by College;
- The College receives the complainant's voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a complaint, and the College determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute Prohibited Conduct even if proven; or
- The College determines that the conduct alleged in the complaint, even if proven, would not constitute Prohibited Conduct. Before dismissing the complaint, the College will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the College will promptly notify the complainant in writing of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the College will notify the parties simultaneously in writing.

The College will notify the complainant that a dismissal may be appealed on the bases, as applicable, outlined in the Appeals section below. If dismissal occurs after the respondent has been notified of the allegations, then the College will also notify the respondent that the dismissal may be appealed on the same bases, as applicable. If a dismissal is appealed, the College will follow the procedures outlined in the Appeals section.

When a complaint is dismissed, the College will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that Prohibited Conduct does not continue or recur within the College's education program or activity.

XI. Informal Resolution Process

At any time prior to reaching a determination regarding responsibility, the College may facilitate an informal resolution process (e.g., mediation or restorative practice process) of a matter involving alleged Prohibited Conduct, where requested by a party, agreed to by both parties, and deemed appropriate by the College. If agreed to by the parties, the College may initiate an informal resolution process with or without a formal, written complaint from the complainant.

Before the initiation of an informal resolution process, the College will explain in writing to the parties:

- The allegations;
- The requirements of the informal resolution process;
- That any party has the right to withdraw from the informal resolution process and initiate or resume formal resolution procedures at any time before the parties sign an informal resolution agreement;
- That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume formal resolution procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- What information the College will maintain and whether and how the College could disclose such information for use in formal resolution procedures if such procedures are initiated or resumed.

The College's specific policies on these issues are explained below.

To proceed with informal resolution, the Title IX coordinator must obtain the parties' voluntary, written consent to the informal resolution process. The College will not require or pressure a party to participate in an informal resolution process or to engage in any particular form of informal resolution, and will not require waiver of applicable rights to participate in investigative resolution as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.

Informal resolution is not appropriate in all cases. The Title IX Coordinator retains the discretion to determine which cases are or are not appropriate for informal resolution, and the College may decline to offer informal resolution despite one or more of the parties' wishes. Similarly, the College may decide to end informal resolution at any time before all parties have signed an informal resolution agreement, when deemed appropriate. Factors considered by the Title IX Coordinator in exercising this discretion may include but are not limited to whether the alleged Prohibited Conduct would present a future risk of harm to others. The College will not offer an informal resolution process if doing so would conflict with federal, state or local law.

If the parties and the College agree to pursue an informal resolution process, the Title IX Coordinator will designate a facilitator for the process. The facilitator will not be the same person as an investigator or decisionmaker who participates in any formal resolution process involving the same parties. Any person designated to facilitate an informal resolution process will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Any person facilitating informal resolution will receive training regarding: the College's obligation to address Prohibited Conduct in its education program or activity; the scope of conduct that constitutes Prohibited Conduct, including the

definition of sex-based harassment; all applicable notification requirements; the rules and practices associated with the College's informal resolution process; and how to serve impartially, including by avoiding conflicts of interest and bias.

Any party has the right to withdraw from the informal resolution process and initiate or resume formal resolution procedures at any time before the parties sign an informal resolution agreement. If the parties agree to a resolution at the end of an informal resolution process, they cannot initiate or resume formal resolution procedures arising from the same allegations.

If informal resolution is stopped prior to the signing by all parties of a written informal resolution agreement, information that was shared with or documented by the facilitator of the informal resolution process will not be shared with the investigator or decisionmaker if a formal resolution process is thereafter initiated or resumed. No statements made during the informal resolution process may be submitted to or considered in a formal resolution process. A party's willingness to participate in informal resolution will not be considered as evidence of responsibility in a formal resolution process.

Records developed exclusively during and for the purposes of an informal resolution process will not, similarly, be considered in any subsequent formal resolution process. Any such records will however be maintained by the Title IX Coordinator to facilitate the College's ability to fairly assess patterns or systemic behavior and for other appropriate purposes, and while the College will strive to respect the confidentiality of the parties' communications with the facilitator during the informal resolution process to the extent necessary to facilitate the resolution, the College may share information discussed or created during this process, for example, as required to comply with a lawfully-issued subpoena or a FERPA education record request. Further, if the respondent is found responsible for any violations of this Policy in the future, information regarding the prior report processed through informal resolution may be used in the sanctioning phase for the subsequent report, provided that the respondent is granted the opportunity to address the prior report as well.

Potential terms that may be requested or offered in an informal resolution agreement include but are not limited to: restrictions on contact between the parties; restrictions on the respondent's participation in one or more of the College's programs or activities or attendance at specific events, including restrictions agreed to between the parties that the College could have imposed as remedies or disciplinary sanctions had the College determined at the end of an investigative resolution that Prohibited Conduct occurred; supportive measures; conducting targeted or broad-based educational programming or training for relevant individuals or groups; service options; permanent supportive measures; communication with the respondent by the Title IX coordinator and/or the Vice President of Student Affairs or designee; other forms of restorative justice options; and any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy. Informal resolution typically does not involve disciplinary action against a respondent, unless agreed upon by all parties. It should be noted that an informal resolution agreement is binding only on the parties who sign it.

Because the outcomes of informal resolution processes are mutually developed and agreed upon by the parties involved, an appeal of the process and its result is not permitted.

The time frame for completion of informal resolution may vary, but the College will seek to initiate informal resolution or decline informal resolution (because either the respondent or the College decide not to use it) within thirty (30) work days of the complainant's request for informal resolution, and where informal resolution is initiated, to either complete the process or initiate or resume an investigative resolution process, as appropriate, within 60 days of the initiation of the informal resolution process.

XII. Formal Resolution Process

A. General Principles

The College will treat complainants and respondents equitably and its process will be prompt, fair, and impartial from the initial investigation to the final result.

The College requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

The College's process will be conducted by officials (including investigators, decisionmakers, and other persons responsible for implementing the College's procedures and/or who have the authority to modify or terminate supportive measures) who, at a minimum, receive annual training on: the issues related to Prohibited Conduct and on how to conduct an investigation and resolution process that protects the safety of the parties and promotes accountability; the College's obligations in responding to sex discrimination, as outlined in applicable Title IX regulations; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and the meaning of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance.

The College presumes that the respondent is not responsible for the alleged Prohibited Conduct; determinations regarding responsibility are made at the conclusion of the College's procedures.

The College has established the following timeframes for the major stages of these procedures: 1) initial assessment (14 days); 2) investigation (60 days); 3) determination (30 days); and 4) appeal (14 days). The College has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice of any extension to the parties that includes the reason for the delay:

- A party who wishes to request an extension of any deadline established by this process, the Title IX Coordinator, the investigator, or anyone else responsible for implementing these procedures should make that request via email to the person who established the deadline;
- that person will inform the requesting party promptly regarding whether the requested extension will be granted (as requested or in modified form) or denied;
- if the extension is granted in whole or in part, that person will inform the other party of the extension, and extend a similar amount of time for the other party's compliance with any similar deadline, as applicable.

The College may also extend timeframes for major stages of the procedures at its own discretion as necessary, and if it does so it will inform the parties of that and summarize the reason for the extension.

The College will take reasonable steps to protect the privacy of the parties and witnesses during these procedures, which will include requiring the parties and any advisors to sign an agreement that they will not download, copy, photograph, otherwise reproduce, publish, or distribute any evidence that is provided to them for review through these procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, support persons or advisors; or otherwise prepare for or participate in the procedures. The parties cannot engage in retaliation, including against witnesses.

The College will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the College to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the College obtains that party's or witness's voluntary, written consent for use in this process; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless such evidence is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

The College will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

The College will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by an advisor of their choice, who may be, but is not required to be, an attorney, subject to the following:

- The College will not limit the choice or presence of the advisor for the complainant or respondent in any meeting or proceeding.
- The College has established restrictions regarding the extent to which an advisor may participate in the College's process. Specifically, advisors may during any meetings or proceedings held under this policy confer in a non-disruptive manner with the party they are advising, but they may not advocate on behalf of the party, disrupt proceedings, pose questions to parties or witnesses personally, or otherwise engage in conduct deemed by an investigator and/or decisionmaker to be inappropriate to their limited role within the process. Advisors who do not conform their behavior to these requirements may be excluded from the process. These restrictions will apply equally to the advisors for each party, if any.

The College will also provide the parties with the same opportunities to have one support person, in addition to an advisor, at any meeting or proceeding held under these procedures. Support persons may confer in a non-disruptive manner with the party they are supporting, but they may not advocate on behalf of the party, disrupt proceedings, pose questions to parties or witnesses personally, or otherwise engage in conduct deemed by an investigator and/or decisionmaker to be inappropriate to their limited role within the process. Support persons are not permitted to review evidence that is provided to the parties for review through the procedures outlined below. Support persons who do not conform their behavior to these requirements may be excluded from the process. These restrictions will apply equally to the support persons for each party, if any.

Through procedures outlined below, the College will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible. The parties will have timely and equal access to any information that will be used during the process as provided below. The College will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

Both the complainant and the respondent will be simultaneously informed, in writing: a) of the outcome of any College disciplinary proceeding that arises from an allegation of Prohibited Conduct; b) of the College's procedures for the complainant and respondent to appeal the results of the College disciplinary proceeding; c) of any change to the results that occurs prior to the time that such results become final; and d) when such results become final.

B. Complaints

The following people have a right to make a complaint and request that the College investigate and make a determination about Prohibited Conduct:

- A "complainant," which includes:
 - a student or employee of the College who is alleged to have been subjected to conduct that could constitute Prohibited Conduct; or

- a person other than a student or employee of the College who is alleged to have been subjected to conduct that could constitute Prohibited Conduct at a time when that individual was participating or attempting to participate in the College's education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- The College's Title IX Coordinator.

A person is entitled to make a complaint of Prohibited Conduct only if they themselves are alleged to have been subjected to the Prohibited Conduct, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint under circumstances described below.

The College may consolidate complaints of Prohibited Conduct against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of Prohibited Conduct arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

C. Investigation Procedures

The College will utilize the following investigation procedures to resolve all reports of Prohibited Conduct that are addressed through this policy, and that are not otherwise resolved through an informal resolution process. As explained further below, one type of decisionmaking procedure will be used to resolve matters involving alleged sex-based harassment where one or more of the parties is a student, and another type of decisionmaking procedure will be used in all other cases. The investigation procedures will be the same in both types of cases.

1. Written Notice of Allegations

Upon initiation of these procedures, the College will notify the parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

- These formal procedures and the informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The College presumes that the respondent is not responsible for the alleged Prohibited Conduct, that determinations regarding responsibility are made at the conclusion of the College's procedures, and that prior to such a determination, the parties will have an

opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;

- The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- The name and contact information of the investigator and how to challenge participation by the investigator on the basis of a conflict of interest or bias;
- The importance of preserving any potentially relevant evidence in any format, including evidence that may assist in proving that an alleged criminal offense occurred or may be helpful in obtaining a protection order;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence and an investigative report that summarizes this evidence; and
- That College policies applicable to [students](#)³ and [employees](#)⁴ prohibit parties and witnesses from knowingly making false statements or knowingly submitting false information during these procedures.

If, in the course of an investigation, the College decides to investigate additional allegations of Prohibited Conduct by a respondent toward a complainant that are not included in the written notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

2. Investigation Procedures

The College will provide for adequate, reliable, and impartial investigation of complaints. The burden is on the College—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred.

The Title IX Coordinator will either investigate a complaint themselves, or appoint an investigator or investigators, internal or external, at the discretion of the Title IX Coordinator. The Title IX Coordinator will inform the parties of the identity of the investigator, and will provide the parties with 3 business days to submit to the Title IX Coordinator any objection to the appointment of the investigator based on grounds that the investigator has a bias toward complainants or respondents generally or a particular complainant or respondent, or has a conflict of interest. The Title IX Coordinator will decide whether to sustain or deny such objections within 5 business days of receiving a party's objection, and appoint an alternate investigator as necessary, following the same procedure.

In conducting an investigation, the investigator may meet separately with any party who is participating in the investigation, with the reporter (if applicable), and other witnesses. Witnesses must have observed the acts in question or have information relevant to the incident and cannot

³ See Disrespect for Person's & Property section of the Student Code of Conduct.

⁴ See Code of Conduct and "Whistleblower" Policy section of the Employee Handbook, found on the mySMC Human Resources portal page.

be participating solely to speak about an individual's character. At a time or times deemed appropriate by the investigator, the parties will be given equal opportunities to suggest fact witnesses whom they would like the investigator to interview; the parties should indicate briefly the general subject matter of the information the witness is likely to have, so that the investigator can determine whether or not, in their discretion, they will interview the suggested witnesses. The parties may also provide inculpatory or exculpatory evidence to the investigator, at a time or times deemed appropriate by the investigator. The investigator may also gather relevant physical and medical evidence, relevant communications between the parties, and other relevant information offered by either party or discovered independently by the investigator.

Once the investigator has conducted interviews and gathered evidence as they deem necessary, they will write a preliminary investigative report that summarizes the evidence, and create an appendix that consists of all of the relevant and not otherwise impermissible evidence gathered to that point in the investigation. The preliminary investigative report will not contain any recommendation regarding responsibility. The investigator and/or the Title IX Coordinator will provide each party and the party's advisor, if any, with an equal opportunity to access the preliminary investigative report and the appendix, through a secure electronic file-sharing platform or other means as appropriate.

The investigator or Title IX Coordinator will provide the parties with a reasonable and equal amount of time to review and prepare, if they wish, a written response to the preliminary investigative report and appendix. If a party chooses to submit a written response, their response may contain narrative arguments regarding the factual issues and/or application of College policy definitions to those facts, requests to conduct additional investigation, and/or other not otherwise impermissible information that the party wishes to submit. The investigator or Title IX Coordinator will share any written response submitted by one party with the other party, through a secure electronic file-sharing platform or other means as appropriate. The investigator will consider the parties' written responses to the preliminary investigative report, if any, and will decide whether to conduct any additional investigation. If additional investigation is performed, the investigator or Title IX Coordinator will create a supplement to the investigative report and supplemental appendix as necessary, and provide the parties with a reasonable and equal amount of time to review and prepare, if they wish, a written response to the supplement and supplemental appendix.

When the investigator determines that it is appropriate to conclude the investigation, they will prepare a final investigative report. The final investigative report will not contain any recommendation regarding responsibility. The parties will be provided with access to the final investigative report and the appendix through a secure file-sharing platform or other means as appropriate. If they wish to do so, each party may, within 7 calendar days, prepare and submit to the Title IX Coordinator a written response to the final investigative report, for consideration by the decisionmaker as provided below.

The College endeavors to complete the investigation process within 60 days from the date when the notice of investigation was sent to the parties, unless that timeframe is extended for good cause as discussed above.

3. Decisionmaking Procedures

As explained below, one type of decisionmaking procedure will be used to resolve matters involving alleged sex-based harassment where one or more of the parties is a student, and another type of decisionmaking procedure will be used in all other cases. When a party is both a student and an employee, the College will make a fact-specific inquiry focused on whether the party's primary relationship with the College is to receive an education and whether the alleged Prohibited Conduct occurred while the party was performing employment-related work.

i. Decisionmaking Procedure for Sex-Based Harassment Complaints Where One or More of the Parties is a Student

The following decisionmaking procedures, which will include a live, remote hearing process, will apply to resolve matters involving alleged sex-based harassment where one or more of the parties is a student. If the allegations under investigation in such a matter also involve allegations that the respondent also engaged in another type of Prohibited Conduct or conduct in violation of another College policy, the allegations will be resolved under the procedures outlined in this subsection.

The Title IX Coordinator will appoint at their discretion a decisionmaker, who may be internal or external to the College. The Title IX Coordinator will inform the parties of the identity of the decisionmaker, and will provide the parties with 3 business days to submit to the Title IX Coordinator any objection to the appointment of the decisionmaker based on grounds that the decisionmaker has a bias toward complainants or respondents generally or a particular complainant or respondent, or has a conflict of interest. The Title IX Coordinator will decide whether to sustain or deny such objections within 5 business days of receiving a party's objection, and appoint an alternate decisionmaker as necessary, following the same procedure.

In advance of the hearing, the Title IX Coordinator will provide to the decisionmaker: 1) the final investigation report; 2) the appendix to the final investigation report; and 3) the parties' written responses to the investigation report, if any. The Title IX Coordinator will inform the parties that if they wish to do so, they may submit in writing to the Title IX Coordinator questions that they know in advance that they would like their advisor to pose to the other party and/or any witnesses who participate in the hearing. Any such questions should be numbered for ease of identification, and should be submitted no later than 2 business days before the scheduled date of the hearing, so that the Title IX Coordinator can forward them to the decisionmaker for their consideration.

If a party wishes to have an individual appear at the hearing as a witness, they must provide notice of the identity of the proposed witness and a brief description of the subject matter of the witness's testimony to the Title IX Coordinator at least 10 calendar days before the date of the hearing. The Title IX Coordinator, in consultation with the decisionmaker as necessary, will determine whether the witness is likely to have relevant information, and if it is determined that the witness is likely to have relevant information, the Title IX Coordinator will inform the witness that their presence at the hearing is required (to the extent that the College has jurisdiction to require the presence of the witness) or requested. The College may decide to require an employee or other person authorized to provide aid, benefit, or service under the

College's education program or activity to participate as a witness in, or otherwise assist with, a hearing under this policy, but it will not require student participation in hearings.

Hearings will be conducted through a secure virtual meeting platform with the parties physically present in separate locations, with technology enabling the decisionmaker and parties to simultaneously see and hear the party or witness while that person is speaking. At no time during the hearing process will either party or their advisor be permitted to address the other party or question the other party or witnesses directly. The College will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.

The decisionmaker will have broad discretion over the order of proceedings during the hearing. Subject to that discretion, the decisionmaker will ordinarily ask the questions of each party and witness that the decisionmaker wishes to ask, and will also ask non-duplicative, approved pre-submitted questions of the other party and/or witnesses, as well as any non-duplicative, relevant and otherwise not impermissible follow-up questions proposed by the parties and/or their advisors. The methodology for the parties and/or their advisors to communicate with the decisionmaker about proposed follow-up questions will be determined at the discretion of the decisionmaker. The decisionmaker will determine whether all questions posed by the parties and/or their advisors are relevant and not otherwise impermissible, and will explain either before or during the hearing any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The decisionmaker will give a party and/or their advisor an opportunity to clarify or revise a question that the decisionmaker initially determines is unclear, harassing, not relevant or otherwise impermissible. If the party and/or their advisor sufficiently clarifies or revises the question, the decisionmaker will ask the question. It should be noted in this context that repetitive questions are not relevant because if they have already been asked and answered substantively by a party or witness, further similar answers to such questions would not aid the decisionmaker in determining whether sex-based harassment occurred.

If a party or witness refuses to respond to a question that was asked by the decisionmaker and/or a question requested by a party that was deemed relevant and not otherwise impermissible, the decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to such questions. The decisionmaker will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

Following their evaluation of all relevant and not otherwise impermissible evidence, the decisionmaker will use the preponderance of the evidence standard to determine whether sex-based harassment and any other Prohibited Conduct or other policy violations being addressed through the process occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that Prohibited Conduct occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that Prohibited Conduct occurred.

The decisionmaker will prepare a written determination regarding whether Prohibited Conduct occurred, which will include the following:

- A description of the alleged Prohibited Conduct;
- Information about the policies and procedures that the College used to evaluate the allegations;
- The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether Prohibited Conduct occurred;
- If the decisionmaker finds that Prohibited Conduct occurred, any disciplinary sanctions the College will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the College to the complainant, and, to the extent appropriate, other students identified by the College to be experiencing the effects of Prohibited Conduct; and
- The College's procedures and permissible bases for the complainant and respondent to appeal, as provided in the Appeal section below.

Sanction and remedy-related issues that will apply to all matters addressed through this policy are outlined below.

The College will comply with these procedures before the imposition of any disciplinary sanctions against a respondent, and it will not discipline a party, witness, or other person participating in this process for making a false statement based solely on the determination whether Prohibited Conduct occurred.

A written determination regarding responsibility becomes final either on the date that the College provides it to the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

The College endeavors to complete the determination process in matters addressed through the procedures outlined in this sub-section within 30 days from the date when the final investigative report and appendix and any party written response were provided to the decisionmaker, unless that timeframe is extended for good cause as discussed above.

ii. Decisionmaking Procedures for All Other Complaints

The following decisionmaking procedures, which will not include a live hearing process, will apply to resolve any and all matters that fall within the scope of this policy and/or any other related alleged College policy violations that the College decides at its discretion to address through these procedures, but that do not involve alleged sex-based harassment where one or more of the parties is a student.

The Title IX Coordinator will appoint at their discretion a decisionmaker, who may be internal or external to the College. The Title IX Coordinator will inform the parties of the identity of the decisionmaker, and will provide the parties with 3 business days to submit to the Title IX

Coordinator any objection to the appointment of the decisionmaker based on grounds that they have a bias toward complainants or respondents generally or a particular complainant or respondent, or have a conflict of interest. The Title IX Coordinator will decide whether to sustain or deny such objections within 5 business days of receiving a party's objection, and appoint an alternate decisionmaker as necessary, following the same procedure.

The Title IX Coordinator will provide to the decisionmaker: 1) the final investigation report; 2) the appendix to the final investigation report; and 3) the parties' written responses to the investigation report, if any. The decisionmaker will determine based on those materials whether the decisionmaker needs to question a party or witnesses in order to adequately assess their credibility to the extent credibility is both in dispute and relevant to evaluating the allegations of Prohibited Conduct, or whether those issues are addressed sufficiently in the investigator's report. If the decisionmaker decides to question a party or witness, they will do so through an interview with the party or witness. Parties may be accompanied in such interviews by an advisor and/or support person. The role of advisors and support persons in such interviews will be limited on the same terms as the role of advisors and support persons in interviews by investigators, as outlined above. Such interviews will be audio-recorded and transcribed, and the parties will be provided with a reasonable opportunity to submit to the decisionmaker any written responses to the additional information gathered through such interviews that they wish to submit.

Following their evaluation of all relevant and not otherwise impermissible evidence and any written submissions from the parties, the decisionmaker will use the preponderance of the evidence standard to determine whether Prohibited Conduct occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that Prohibited Conduct occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that Prohibited Conduct occurred.

The decisionmaker or Title IX Coordinator will notify the parties in writing of the determination whether Prohibited Conduct occurred, the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal under the Appeal procedures outlined below.

The College endeavors to complete the determination process in matters addressed through the procedures outlined in this sub-section within 30 days from the date when the final investigative report and appendix and any party written responses were provided to the decisionmaker, unless that timeframe is extended for good cause as discussed above.

4. Sanction and Remedy-Related Issues

While the decisionmaker will draft the written determination that includes a description of any disciplinary sanctions the College will impose on the respondent, the decisionmaker will not select the sanctions. Instead, the decisionmaker will provide to a sanctioning officer a version of the determination that includes all of the elements identified above except the sanction, for consideration by the sanctioning officer. In cases where a student is found responsible for Prohibited Conduct and/or other misconduct, the sanctioning officer will be the Associate Dean

of Students / Director of Residence Life and Community Standards or designee. In cases where a faculty member is found responsible for Prohibited Conduct and/or other misconduct, the sanctioning officer will be a College administrator appointed by the President. In cases where a non-faculty employee is found responsible for Prohibited Conduct and/or other misconduct, the sanctioning officer will be determined by the Director of Human Resources or designee. In cases where a respondent occupies more than one of these categories, sanctioning officers will determine at their discretion who will determine the sanction, either jointly or individually.

The sanctioning officer will determine what sanctions are appropriate for the respondent, in light of the information in the determination provided by the decisionmaker and the factors outlined below. Once the sanctioning officer has determined appropriate sanctions, they will inform the decisionmaker of those sanctions, so that the decisionmaker can incorporate them into the written determination to be provided to the parties.

The sanctioning officer and the decisionmaker will collaborate to produce one written determination, which will provide notice to the parties of findings regarding responsibility, any resulting sanctions, and the rationale therefor. Written determinations regarding responsibility and sanctions will be communicated to the parties simultaneously.

The College will not impose discipline on a respondent for Prohibited Conduct unless there is a determination at the conclusion of the College's procedures that the respondent engaged in Prohibited Conduct.

Further, if there is a determination that Prohibited Conduct occurred, as appropriate, the Title IX Coordinator will:

- Coordinate the provision and implementation of remedies to a complainant and other people the College identifies as having had equal access to the College's education program or activity limited or denied by sex discrimination;
- Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
- Take other appropriate prompt and effective steps to ensure that Prohibited Conduct does not continue or recur within the College's education program or activity.

The possible sanctions the College may impose following a finding of responsibility for Prohibited Conduct that does not constitute sexual assault, domestic violence, dating violence or stalking may include but are not limited to:

- verbal or written warning;
- training;
- counseling;
- probation;

- residential relocation;
- class or academic re-assignment;
- no contact order;
- no trespass order;
- suspension of a student’s enrollment or an employee’s employment; and/or
- dismissal from enrollment or employment at the College and/or referral to a separate process for employment-status-related sanctioning, as appropriate.

The possible sanctions the College may impose following a finding of responsibility for Prohibited Conduct that constitutes sexual assault, domestic violence, dating violence or stalking may include:

- probation;
- class or academic re-assignment;
- residential relocation;
- suspension of a student’s enrollment or an employee’s employment; and/or
- dismissal from enrollment or employment at the College, and/or referral to a separate process for employment-status-related sanctioning, as appropriate.

For a fuller description of these sanctions in the student context, please see the “Disciplinary Status Sanctions” section of the **Student Code of Conduct and Policies**. For a fuller description of these sanctions in the employment context, please see the College’s **Employee Handbook**.

5. Disposition Without A Determination/Dean’s Sanction

In cases where the facts are not in dispute, and a student respondent is prepared to accept responsibility for their actions, the College may, once it has determined that the student respondent understands fully but has decided not to take advantage of the rights provided by the procedures described above, offer the option of Disposition Without a Determination, which is also called a Dean’s Sanction. For a full description of the Dean’s Sanction process, please see the “Disciplinary Sanctions” section of the **Student Code of Conduct and Policies**.

6. Appeal Procedure

The College will offer an appeal from a dismissal or determination whether Prohibited Conduct occurred on the following bases:

- Procedural irregularity that would change the outcome;

- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker 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.

Appeals must be filed in writing within 7 days of the date when the College provides notice to the appealing party of the dismissal or determination being appealed. Appeals should consist of a written statement challenging the dismissal or determination being appealed, framed within one or more of the limited grounds of appeal outlined above.

If a party appeals a dismissal or determination whether Prohibited Conduct occurred, the College will:

- Notify the parties in writing of any appeal, including notice to the respondent of the allegations if the matter under appeal is a dismissal and notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal (“the appeal officer”) did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the appeal officer has been trained consistent with the Title IX regulations;
- Notify the parties of the identity of the appeal officer;
- Communicate to the parties in writing that the College will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

The appeal officer will be appointed by the Title IX Coordinator, unless the ground of appeal is that the Title IX Coordinator had a bias or conflict of interest; in such cases, if an appeal is filed by a student, then the appeal officer will be appointed by the Vice President of Student Affairs or designee. In cases where an appeal is filed by an employee, then the appeal officer will be appointed by the Director of Human Resources or designee

The appointing officer will provide the parties with 3 business days to submit to the appointing officer any objection to the appointment of the appeal officer based on grounds that the appeal officer has a bias toward complainants or respondents generally or a particular complainant or respondent, or has a conflict of interest. The appointing official will decide whether to sustain or deny such objections within 5 business days of receiving a party’s objection, and appoint an alternate appeal officer as necessary, following the same procedure.

The Title IX Coordinator will make the appealing party's written appeal document available to the other party for review. A party who did not file an appeal may, if they wish to do so, submit to the Title IX Coordinator within 5 days of receiving access to the appealing party's written statement a written statement in support of the outcome.

If both or multiple parties file appeals, all other parties will receive a reasonable and equal opportunity to submit a written statement in support of, or challenging, the outcome, consistent with the process and time periods stated above.

The appeal is an impartial review of the information considered by the decisionmaker, in light of one or more of the grounds of appeal. The appeal is not a new investigation of the merits of the matter. The appeal officer may affirm, reject or modify the decision of the decisionmaker, or may direct the decisionmaker to reconsider certain findings. The appeal officer will issue a written decision describing the result of the appeal and the rationale for the result. The Title IX coordinator will simultaneously communicate the appeal determination to the parties within three (3) business days of the appeal officer's decision.

The College endeavors to complete the appeal process within 14 days from the date when the appeal was filed, unless that timeframe is extended for good cause as discussed above.

XIII. Maintenance of Records

All records related to complaint resolution will be maintained for seven (7) years by the Title IX Coordinator, including:

- For each complaint of Prohibited Conduct, records documenting any informal resolution process or formal resolution process, and the resulting outcome;
- For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute Prohibited Conduct, records documenting the actions the College took in response; and
- All materials used to provide training regarding issues related to Prohibited Conduct. The College will provide an on-campus, in-person opportunity for members of the public to review such materials upon request, in the presence of a College official.

An audio-recording or transcript of any hearing and any documents or other evidence presented at the hearing will serve as the record of the hearing proceedings and will be maintained by the Title IX Coordinator, as part of the respondent's conduct record for as long as the conduct record is maintained.

If a respondent has been found responsible by the decisionmaker for violating this policy, the violations will be considered by the College in the review of any later reported conduct issues by the respondent, including the evaluation of appropriate sanctions if the respondent is found responsible for subsequent violations of College policies.

XIV. Training, Prevention and Awareness Programs

The College provides training to students and employees to ensure they understand this policy and the topics and issues related to maintaining an education and employment environment free from Prohibited Conduct.

Specifically:

- The College will provide to all employees, as required by law, training on:
 - The College’s obligation to address Prohibited Conduct in its education program or activity;
 - The scope of conduct that constitutes Prohibited Conduct, including the definition of sex-based harassment; and
 - All applicable notification and information requirements.
- The College will, in addition to the training provided to all other employees, provide to investigators, decisionmakers, appeal officers and other persons who are responsible for implementing the College’s grievance procedures or have the authority to modify or terminate supportive measures training on the following topics to the extent related to their responsibilities:
 - The College’s obligations to respond to Prohibited Conduct, as required by federal regulations;
 - The investigative resolution procedures outlined above;
 - How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
 - 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 as described above.
- The College will, in addition to the training provided to all other employees, provide to facilitators of the College’s informal resolution process training on the rules and practices associated with that process and on how to serve impartially, including by avoiding conflicts of interest and bias.
- The College will provide to the Title IX Coordinator and designees, in addition to all of the training listed above, training on their specific responsibilities in those roles as defined by federal regulations, the College’s obligations to prevent discrimination and ensure equal access based on pregnancy and related conditions, respond to Prohibited Conduct and provide supportive measures as required by federal regulations, keep records as required by federal regulations, and any other training necessary to coordinate the College’s compliance with Title IX.

The College will provide educational programming for students and employees addressing the issues of domestic violence, dating violence, sexual assault, and stalking, which will include: 1) primary prevention and awareness programs for all incoming students and new employees; 2) safe and positive options for bystander intervention; 3) information on risk reduction to recognize warning signs of abusive behavior; 4) ongoing prevention and awareness programs for students, faculty and staff who have responsibility for working with students.