



# BROOKLINE COLLEGE

Small College. Big Future.

## **Title IX Sex Discrimination and Sexual Misconduct Policy and Procedures**

Brookline College is committed to fostering an environment in which students, faculty, and staff learn and work in an atmosphere free of unlawful sex discrimination, which includes instances of sexual or gender-based harassment or sexual violence. The College does not discriminate on the basis of sex or gender in any of its education or employment programs and activities. The policy and procedures described below (and hereafter referred to as the “policy”) prohibit specific forms of behavior that violate Title IX of the Education Amendments of 1972 (“Title IX”).

The College recognizes its continuing obligation to take immediate and appropriate action to address sex discrimination, sexual and gender-based harassment and sexual violence, prevent its recurrence, eliminate any hostile environment and remedy its effects on any student, employee, third party or the broader College community, as appropriate, in all of its education programs and activities. The College regards sex discrimination, sexual or gender-based harassment, sexual violence, including sexual assault, domestic violence, dating violence, and stalking as serious offenses as a violation of this policy; these offenses may result in suspension, expulsion, or termination of employment. The College will address all incidents of sex discrimination or sexual or gender-based harassment for which it has notice (knows or should know about) even when a complaint or report is not filed. As necessary and appropriate under this policy, the College will discipline individuals who engage in behavior that violates this policy.

Neither the College nor any officer, faculty member, staff member, or agent of the College shall retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under Title IX. The College will take strong responsive action against any retaliation.

### I. Jurisdiction

This policy applies to all students, faculty, and staff, regardless of sexual orientation or gender identity, as well as to third parties.

This policy applies to conduct in all of the College’s education programs and activities. The policy applies to off-campus conduct if the conduct occurs in the context of an

education program or setting, or had a continuing effect on campus or in an off-campus education program or activity.

If the Title IX Coordinator determines that there is no jurisdiction, the Title IX Coordinator will offer to assist the complainant and, as appropriate, the respondent, in finding appropriate campus and off-campus resources for addressing the issue of concern.

## II. Definitions

“Advisor” means any individual who provides the complainant or the respondent with support, guidance, or advice.

“Complaint” is an allegation of sex discrimination, including but not limited to sexual harassment, gender-based harassment, sexual violence, exploitation, intimidation, domestic violence, and dating violence, made under this policy.

“Complainant” refers to the individual who alleges that she/he has been the subject of misconduct under this policy, and can be a College student, employee (including all full-time and part-time faculty and staff), or visitor. Under this policy, the alleged incident(s) may have been brought to the College’s attention by someone other than the complainant.

“Consent” is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Silence or failure to resist does not, in and of itself, demonstrate consent. Consent can be withdrawn at any time. Past consent to sexual activity between individuals does not constitute consent to subsequent sexual activity between those individuals, and consent to one form of sexual activity does not necessarily imply consent to other forms of sexual activity. If coercion, intimidation, threats and/or physical force are used, there is no consent. If a person is under the legal age of consent, or mentally or physically incapacitated or impaired so that the person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption or being asleep or unconscious. Whether one has taken advantage of a position of influence over another may be a factor in determining consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity or gender expression.

“Dating Violence” means a felony or misdemeanor crime of violence committed—

- i. By a current or former spouse or intimate partner of the victim;
- ii. By a person with whom the victim shares a child in common;

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- iii. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- iv. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or
- v. By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

“Domestic Violence” includes asserted violent misdemeanor and felony offenses committed by the victim’s current or former spouse, current or former cohabitant, person with whom the victim shares a child in common, person similarly situated to a spouse of the victim under domestic or family violence law, or anyone else against whom an adult or youth victim is protected under domestic or family violence law.

“Fondling” means 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 incapacity.

“Gender-based harassment” is unwelcome conduct of a nonsexual nature based on an individual’s actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes. An example of gender-based harassment would be mocking or disparagement of a person based on a perceived lack of stereotypical masculinity or femininity.

“Hostile environment” is an environment which is created when a person experiences unwelcome conduct related to that person’s sex or gender that is sufficiently serious that it interferes with or limits an individual’s ability to participate or benefit from an educational program or when such conduct unreasonably interferes with an individual’s employment. A hostile environment can be created by anyone involved in a College program or activity (e.g., administrators, faculty members, students, and even guests). Mere offensiveness is not enough to create a hostile environment. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a serious incident can be sufficient. A single instance of sexual assault is sufficiently severe to create a sexually hostile environment. In determining whether harassment has created a hostile environment, consideration will be made not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive. Also, the following factors will be considered: 1) the degree to which the conduct affected one or more students’ education or individual’s employment; 2) the nature, scope,

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frequency, duration, and location of incident or incidents; and 3) the identity, number, and relationships of persons involved.

“Incapacitation” means any physical state when a person lacks capacity to give consent (e.g., when a person is asleep or unconscious, when a person lacks capacity to give consent due to the use of drugs or alcohol, or when an intellectual or other disability prevents the person from having the capacity to give consent).

“Incest” means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

“Intimidation” means to coerce by threat or to make timid or fearful.

“Notice” refers to when the College knows or reasonably should know of possible violations of the policy, including sexual harassment, gender-based harassment and sexual violence.

“Rape” means the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

“Respondent” refers to the individual who is alleged to have committed sex discrimination, sexual harassment, gender-based harassment or sexual violence against a College student, employee, or visitor.

“Report” refers to information provided by someone other than a complainant reporting misconduct that violates this policy by someone.

“Responsible employee” refers to any employee who has the authority to take action to redress misconduct under this policy; who has been given the duty of reporting incidents of misconduct to the Title IX coordinator; or whom a student could reasonably believe has this authority or duty.

“Retaliation” is adverse treatment of an individual who complains or reports a possible violation of the policy, or assists someone with a complaint or report of a violation of the policy, or participating in any manner in an investigation or resolution of a complaint or report. Adverse treatment includes threats, intimidation, coercion or discrimination (including harassment) and reprisals by either a complainant or respondent or by others such as friends or relatives of either a complainant or respondent.

“Sexual assault” is any form of sexual contact (i.e., any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party) that occurs without consent and/or through the use of force, threat of force, intimidation, or

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coercion. Any conduct that meets the definition of rape, fondling, incest or statutory rape constitutes a sexual assault.

“Sex discrimination” is conduct that is based upon an individual’s sex, marital or family status, pregnancy, gender identity, gender expression, nonconformity with gender stereotypes, or sexual orientation that excludes an individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual’s employment, education, living environment or participation in a College program or activity.

“Sexual exploitation” means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.

“Sexual harassment” is unwelcome conduct of a sexual nature, including but not limited to unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic and electronic communications or physical conduct of a sexual nature. Harassing conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.

“Sexual violence” is an umbrella term that includes: sexual assault, dating violence, and domestic partner violence. Stalking, while not necessarily sexual in nature, can be a form of sexual violence depending upon the circumstances.

“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- i. Fear for the person’s safety or the safety of others; or
- ii. Suffer substantial emotional distress.

For purposes of this definition, a course of conduct means two or more acts of stalking behavior. Stalking behavior includes, but is not limited to: following a person; threatening a person; appearing uninvited at a person’s home, work, or school; making unwanted phone calls; sending unwanted emails or text messages; leaving objects for a person; vandalizing a person’s property; injuring a person’s pet; and monitoring or placing a person under surveillance. Stalking behavior may be conducted directly or indirectly, through a third party, and may be conducted by any action, method, or device.

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“Statutory Rape” means sexual intercourse with a person who is under the statutory age of consent.

“Unwelcome Conduct” is conduct that an individual did not request or invite and considers the conduct to be undesirable or offensive. Whether conduct is unwelcome is determined based on the totality of the circumstances, including various objective and subjective factors. The following types of information may be helpful in making that determination: statements by any witnesses to the alleged incident; information about the relative credibility of the parties and witnesses; the detail and consistency of each person’s account; the absence of corroborating information where it should logically exist; information that the respondent has been found to have harassed others; information that the complainant has been found to have made false allegations against others; information about the complainant’s reaction or behavior after the alleged incident; and information about any actions the parties took immediately following the incident, including reporting the matter to others.

“Visitor” is an individual who is present at a College campus or unit but is not a student or an employee.

### III. Prohibited Conduct

This policy prohibits sex discrimination and sexual or gender-based harassment that creates a hostile environment against any College student, employee or visitor. In determining whether alleged conduct violates this policy, the College will consider the totality of the facts and circumstances involved in the incident, including the nature of the alleged conduct and the context in which it occurred. Any of the prohibited conduct defined in this policy can be committed by individuals of any gender, and it can occur between individuals of the same gender or different genders. It can occur between strangers or acquaintances, as well as people involved in intimate or sexual relationships.

### IV. Title IX Coordinator

#### A. Duties

The College’s Title IX Coordinator has primary responsibility for coordinating the College’s efforts to comply with and carry out its responsibilities under Title IX, which prohibits sex discrimination and sexual harassment and gender-based harassment in all the operations of this College, as well as retaliation. The Title IX Coordinator will not have any other job responsibilities that create a conflict of interest with regard to the Coordinator’s duties and responsibilities under Title IX.

The College’s Title IX Coordinator has expert knowledge of the College’s Title IX policy. The Title IX Coordinator oversees all Title IX reports received by the College, including the

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Title IX Coordinator's office and all other departments, offices, and individuals identified as responsible employees or delegated the responsibility for receiving and/or investigating reports of misconduct under this policy. The Title IX Coordinator will address any patterns or systematic problems that arise during the review of such reports and assess overall efficacy of coordination and overall response by the College to sexual harassment and sexual violence, including the implementation and efficacy of interim measures, steps taken to stop sex discrimination/harassment found to have occurred and prevent its recurrence, eliminate any hostile environment that has been created for students, and steps taken to remedy any discriminatory effects on the complainant and others, as appropriate.

The Title IX Coordinator has ultimate responsibility for: the prompt investigation of reports alleging sex discrimination, sexual harassment and sexual violence; determination of whether sex discrimination, sexual harassment or sexual violence has occurred in individual cases; the identification and provision of remedies (including interim measures) necessary to address sex, discrimination, sexual harassment or sexual violence, eliminate any hostile environment and prevent its recurrence; and consultation, as necessary, on any matter where it has been determined that sex discrimination, sexual harassment or sexual violence has occurred to ensure the College's compliance with Title IX.

The Title IX Coordinators is responsible for providing information to students and employees regarding their Title IX rights and responsibilities, including information about the resources available on and off College property, the formal and informal resolution processes, the availability of interim measures, and the ability to file a complaint with local law enforcement and the College simultaneously.

The Title IX Coordinator will provide or oversee the provision of initial and ongoing training to individuals from any College department or office delegated the responsibility for receiving and/or investigating reports of sex discrimination, including sexual harassment and sexual violence. The training content will include the substantive requirements of Title IX and how to investigate reports under Title IX that allege sex discrimination, including sexual harassment and sexual violence. The Title IX Coordinator is also responsible for the development, coordination, and implementation of periodic Title IX training for the College community (i.e., staff, faculty, students, etc.). The training will emphasize that all College employees must, within 24 hours of receiving the information, report information they have about possible violations of this policy, including sex discrimination, sexual harassment, and sexual violence, to the Title IX Coordinator.

The Title IX Coordinators is responsible for coordinating communications with local law enforcement regarding the College's obligations under Title IX.

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

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#### B. Responsibility to Address and Respond

The Title IX Coordinator will address and respond to all reports and complaints of violations of this policy even absent the filing of a formal complaint, or if complaint has been withdrawn. The Title IX Coordinator will ensure that the complainant receives a written explanation of all available resources and options. The Title IX Coordinator may need to proceed with an investigation even if a complainant specifically requests that the matter not be pursued or requests confidentiality regarding the complaint. The Title IX Coordinator will take requests seriously, while at the same time considering the College's responsibility to provide a safe and nondiscriminatory environment for all students, including the student who reported the sexual violence.

Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this policy has occurred. Complainants have a right to proceed simultaneously with a criminal investigation and a Title IX investigation, and the College may defer its investigation for a limited time for fact gathering but then will promptly resume its investigation.

#### C. Anonymous and Third Party Reporting

The Title IX Coordinator accepts anonymous and third-party reports of conduct alleged to violate this policy and will follow up on such reports. The individual making the report is encouraged to provide as much detailed information as possible to allow the Title IX Coordinator to investigate and respond as appropriate. However, the Title IX Coordinator may be limited in the ability to investigate an anonymous report.

#### V. Grievance Procedures

The College will take prompt and appropriate action to address and respond to all complaints, reports or other notice that the College receives of alleged or possible violations of this policy.

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The following procedures should be followed whenever a person believes that they have witnessed or been the subject of discrimination or harassment on the basis of sex or gender. These procedures also apply to students and employees at our campus as well as in our online environment.

The College encourages members of the campus community to identify potential violations of this policy so we may create the welcoming atmosphere necessary for you to work and learn. If an individual feels they have been discriminated against or harassed, the individual should immediately contact the Title IX Coordinator to report the offending incident or conduct. Timely reporting is vital to the College's ability to investigate complaints and reports and take prompt and appropriate action. Students and employees are encouraged to report misconduct even if similar conduct was not reported in the past.

College employees must, within 24 hours of receiving the information, report information they have about possible violations of this policy, including sex discrimination, sexual harassment, and sexual violence, to the Title IX Coordinator.

A person wishing to file a complaint should submit a written statement to the Title IX Coordinator or make an appointment to make a complaint in person to the Title IX Coordinator. The complaint should specify: 1) the name of the individual(s) against whom the complaint is made; 2) the nature of the alleged offense; 3) the specifics of the offending incident(s) with precise details (what happened, who was present, when, where, any reasons why they believe the action was taken); 4) the names of any witnesses to the events; and 5) the date and signature of the person making the complaint. It is recommended that as much information as possible be provided regarding the offending incident or conduct. The Title IX Coordinator will prepare a written complaint based on information provided in person.

The College encourages individuals who have experienced sexual harassment, gender-based harassment or sexual violence to report the incident(s) to campus authorities, even if they have reported the incident to outside law enforcement, and regardless of whether the incident took place on or off-campus. Such reporting will enable complainants to get the support they need, and provide the College with the information it needs to take appropriate action. Individuals should be aware that there are employees at their College whom they can speak with on a strictly confidential basis before determining whether to make a report to College authorities. All information in connection with the complaint, including the identities of the complainant and the respondent, will be kept as confidential as possible and will only be shared with those who have a legitimate need for the information.

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## A. Law Enforcement

Complainants have a right to proceed simultaneously with a criminal investigation and a Title IX investigation, and will be so informed by the Title IX Coordinator.

The Title IX Coordinators will coordinate with local law enforcement regarding the College's obligations under Title IX. The Title IX Coordinator will contact any law enforcement agency that is conducting its own investigation to inform that agency that a College investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to the College in its investigation. At the request of law enforcement, the College may delay its investigation temporarily while an external law enforcement agency is gathering evidence. Although cooperation with law enforcement may require the College to temporarily suspend the fact-finding aspect of a Title IX investigation, the College will promptly resume its Title IX investigation as soon as it is notified by the law enforcement agency that the agency has completed the evidence gathering process. The College will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, if needed, will take immediate steps to provide interim measures for the Complainant.

## B. Conflicts

If there is a complaint about the Title IX Coordinator or any staff member that is part of the Title IX Coordinator Office, or if the Title IX Coordinator or Title IX Coordinator staff has a complaint, that complaint should be filed with the CEO of the College. If the CEO agrees, the CEO will appoint another trained individual to take the place of the Title IX Coordinator for purposes of the complaint. If the CEO is the respondent, the investigation will be handled by the College Title IX Coordinator or designee.

## VI. Investigative Process -- Initial Assessment of Complaints and Reports of Policy Violations

The College will thoroughly, promptly, reliably and impartially investigate and respond to all complaints, reports or other notice of alleged or possible violations of this policy. Upon receipt of a complaint, report or other notice, the Title IX Coordinator will initiate the investigative process.

The Title IX Coordinator will conduct an initial assessment to determine the appropriate action. Following the initial assessment, the Title IX Coordinator may take any of the following actions:

- If the Title IX Coordinator determines that there is no jurisdiction (the misconduct at issue is outside the scope of the policy), the Title IX Coordinator will dismiss the

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complaint and, for reports and other notice, administratively close the matter. The Coordinator will offer to assist the complainant and, as appropriate, the respondent, in finding appropriate campus and off-campus resources for addressing the issue of concern. The Title IX Coordinator may directly refer the complaint or report to another office for review.

- If the Title IX Coordinator determines that the misconduct at issue, even if substantiated, would not rise to the level of a policy violation, the Title IX Coordinator may dismiss the complaint or, for reports and other notice, administratively close the matter.
- If the Title IX Coordinator determines that the misconduct at issue would, if substantiated, constitute a violation of this policy, the Title IX Coordinator will initiate an investigation and determine and provide appropriate interim measures.

## VII. Investigative Process: Informal and Formal Resolution

There are two avenues for resolution of an alleged policy violation: 1) informal resolution and 2) formal resolution. Formal resolution involves an investigation, appeal option, and sanction (if applicable). In cases involving allegations of sexual assault or sexual exploitation, informal resolution is not appropriate and will not be used. In other cases, the complainant has the option to proceed informally, when permissible.

### A. Informal Resolution

If the complainant, the respondent, and the Title IX Coordinator all agree that an informal resolution should be pursued, the Title IX Coordinator (or designee) shall attempt to facilitate a resolution of the conflict that is agreeable to all parties. Under the informal process, the Title IX Coordinator shall be required only to conduct such fact-finding as is useful to resolve the conflict and as is necessary to protect the interests of the parties, the College and the community.

Typically, an informal investigation will be completed within twenty (20) days of receipt of the complaint. If it becomes necessary to extend the process, both parties will be notified in writing of a revised expected resolution timeframe.

A complainant or respondent always has the option to request a formal investigation. The Title IX Coordinator also always has the discretion to initiate a formal investigation. If at any point during the informal process, the complainant, the respondent, or the Title IX Coordinator wishes to cease the informal process and to proceed through formal grievance procedures, the formal process outlined below will be invoked.

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## B. Formal Resolution

### i. *Investigation and Adjudication*

The Title IX Coordinator will designate one or more investigators to conduct a prompt, thorough, fair, and impartial investigation. All investigators will receive annual training as noted above in Section XX. The investigation will be conducted by the Title IX Coordinator or designee.

- a. Notice: The College will notify the complainant and the respondent in writing of the commencement of an investigation. Such notice will (1) identify the complainant and the respondent; (2) specify the date, time (if known), location, and nature of the alleged prohibited conduct; (3) identify potential policy violation(s); (4) identify the investigator; (5) explain the prohibition against retaliation; (7) instruct the parties to preserve any potentially relevant evidence in any format; (8) inform the parties how to challenge participation by the Investigator on the basis of bias or a conflict of interest; and (9) provide a copy of this policy.
- b. Investigative Process: The investigator will notify and seek to meet separately with the complainant, the respondent, and third-party witnesses, and will gather other relevant and available evidence and information. The investigator may visit relevant sites or locations and record observations through written, photographic, or other means. The investigator will prepare a case file of all interview summaries, witness statements, and other documents.
- c. Evidentiary Standard: The evidentiary standard that will be used to determine whether there is a violation of this policy is whether there is a preponderance of the evidence (i.e., more likely than not) to believe that an individual engaged in a violation of this policy.
- d. Participation: During the investigation, the parties will have an equal opportunity to be heard, to submit information and evidence, and to identify witnesses who may have relevant information. However, neither party is required to participate in the investigation nor any form of resolution under this policy, and the investigator will not draw any

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adverse inference from a decision by either of the parties not to participate. The investigator will provide a copy of the case file, redacted of personally identifiable information as necessary, to the complainant and the respondent. The investigator will specifically offer both parties an opportunity to respond in writing to the information in the case file. The complainant and respondent will be provided the same amount of time to submit a response.

- e. Advisors: Throughout the process (including the investigation, appeal, and sanction determination, if applicable), each party has the right to choose and consult with an advisor. The advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation. The parties may be accompanied by their respective advisors at any meeting or proceeding related to the investigation and adjudication of a report under this policy. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.
- f. Prior Sexual History: The sexual history of the complainant and/or the respondent will generally not be used in determining whether a violation of this policy has occurred.
- g. Investigative Report: At the conclusion of the investigation, the investigator will prepare an investigation report summarizing the information gathered and including a recommendation as to whether there is sufficient evidence, using the preponderance of the evidence standard, to support a finding of responsibility for a violation of the policy. The investigator will typically deliver the report to the Title IX Coordinator within 45 business days of the receipt of the complaint.
- h. Determination: The Title IX Coordinator will review the investigative report and determine whether to concur or disagree with the recommended finding. If the Title IX Coordinator concurs with the recommended finding, the Coordinator will determine the appropriate sanction(s) for the prohibited conduct.

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- i. Timeframe for Completion of Investigation: Typically, the period from commencement of an investigation through resolution (finding and sanction, if any) will not exceed sixty (60) calendar days. This timeframe may be extended for good cause. The investigator will notify the parties in writing of any extension of this timeframe and the reason for such extension.
- j. Written Notice of Outcome and Sanctions. The Title IX Coordinator will provide written notice to the complainant and the respondent about the outcome of the investigation. The notice to the respondent will include information about any sanctions imposed for a violation of the policy. As permitted, the notice to the complainant will include information about the sanction imposed on the respondent (i.e., when the sanction directly relates to the harassed student). The written notice will be conveyed to the parties at the same time and will include information about the parties' appeal rights.

## VIII. Sanctions

If a student is found responsible for violating this policy, the Title IX Coordinator will determine the appropriate sanction based on the seriousness of the misconduct and the student's previous disciplinary history (if any).

### A. Penalties Applicable to Students

1. For violations of this policy by students, in general the penalties, in ascending order of severity, are:
  - a. Warning: A formal admonition that does not become part of an individual's permanent record, but that may be taken into account in judging the seriousness of any future violation.
  - b. Disciplinary Probation: A more serious admonition assigned for a definite amount of time. It implies that any future violation, of whatever kind, during that time, may be grounds for suspension, suspension with conditions, or in especially serious cases, expulsion from the College. Disciplinary probation will be taken into account in judging the seriousness of any subsequent infraction even if the probationary period has expired. Disciplinary probation appears on an

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individual's permanent record at the College (but not on the transcript) and may be disclosed by the College in response to requests for which the student has given permission or as otherwise legally required.

- c. **Withholding of Degree:** In cases involving students in their final semester, the College may withhold a student's degree for a specified period of time. This penalty is imposed instead of suspension at the end of the final year of study when all other degree requirements have been met. A withheld degree is recorded on a student's transcript. Relevant information remains on the student's permanent record at the College and may be disclosed by the College in response to requests for which the student has given permission or as otherwise legally required.
- d. **Suspension:** Removal from membership in the College for a specified period of time. A suspension is recorded on a student's transcript. Relevant information remains on the student's permanent record at the College and may be disclosed by the College in response to requests for which the student has given permission or as otherwise legally required.
- e. **Suspension with Conditions:** Removal from membership in the College for at least the period of time specified by the suspension, with the suspension to continue until certain conditions, stipulated by the appropriate body applying this penalty, have been fulfilled. These conditions may include, but are not limited to, restitution of damages, formal apology, or counseling. A suspension with conditions is recorded on a student's transcript. Relevant information remains on the student's permanent record at the College and may be disclosed by the College in response to requests for which the student has given permission or as otherwise legally required.
- f. **Expulsion:** Permanent removal from membership in the College, without any opportunity for readmission to the community. Expulsion is recorded on a student's transcript. Relevant information remains on the student's permanent record at the College and may be disclosed by the College in response to requests for which the student has given permission or as otherwise legally required.
- g. **Censure:** College censure can be added to any of the penalties listed above, except warning. Censure indicates the College's desire to underscore the seriousness of the violation and the absence of

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mitigating circumstances and to convey that seriousness in response to future authorized inquiries about the given individual's conduct.

The following may accompany the preceding penalties, as appropriate:

1. **Restriction of Access to Space, Resources, and Activities:** When appropriate in cases involving behavioral misconduct between members of the community, restrictions may be placed on access to space and/or resources or on participation in activities so as to limit opportunities for contact among the parties.
2. **Educational Refresher Programs:** In addition to any of the penalties listed above, a student may be required to participate in educational refresher programs appropriate to the infraction.
2. For violations of this policy by faculty or staff members, disciplinary penalties may include (in accordance with the employment policies governing the employee in question) counseling or training, written warning, financial penalty, unpaid leave of absence, suspension, demotion or termination in accordance with the employment policies governing the specific employee.
3. **Action against Visitors:** In cases where the person accused of sex discrimination, sexual harassment, gender-based harassment or sexual violence is neither a College student nor a College employee, the College's ability to take action against the accused is limited. However, the College shall take all appropriate actions within its control, such as restricting the visitor's access to campus. In addition, the matter shall be referred to local law enforcement for legal action where appropriate.

## IX. Appeals

Both parties, the complainant and the respondent, may appeal the Title IX Coordinator determination and, as applicable, sanction in the formal resolution process to the College CEO. The CEO will have training regarding Title IX and prohibited conduct defined under this policy. If the CEO cannot maintain impartiality, or is involved in the complaint, that person shall be recused from the matter and the Title IX Coordinator shall appoint an appropriately trained replacement.

A complainant or respondent may file a written appeal on the grounds that: (1) there is substantial relevant information that was not presented, and reasonably could not have been presented during the investigation; (2) the imposed penalty does not fall within the

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range of penalties imposed for similar misconduct, or (3) there was procedural unfairness during the disciplinary process.

The purpose of an appeal is not to initiate a review of substantive issues of fact or a new determination of whether a violation of College rules has occurred. The CEO may decide to uphold the original decision of the Title IX Coordinator; to alter the imposed penalty; or to return the case to the panel for additional proceedings or other action.

The deadline for filing an appeal is one week from the date the parties are notified of the decision. If either party files an appeal, the College will notify the other party in writing, provide that party with the appeal, and permit that party three (3) days to file a response. The College will also provide to the appealing party a copy of any response. The College will notify both parties will be notified simultaneously, and in writing, of the outcome of the appeal. Although the timing for final determinations on appeals may vary, it is expected that a decision on a typical appeal should take thirty (30) days from the date the CEO receives the response to the appeal (or the time for filing such response has lapsed).

#### X. Interim Protective Measures

Upon receipt of a complaint, report or other notice of an alleged or possible violation of this policy, the College will provide reasonable and appropriate interim/protective measures designed to preserve the complainant's educational experience, the safety of all parties and the broader College community, maintain the integrity of the investigative and/or resolution process, and deter retaliation. The College may provide interim/protective measures regardless of whether the complainant seeks formal disciplinary action. Interim/protective measures may include:

- Access to counseling services and assistance in arranging an initial appointment;
- Rescheduling of exams and assignments;
- Change in class schedule, including the ability to transfer course sections or withdraw from a course;
- Change in work schedule or job assignment;
- Providing medical services;
- Imposition of an on-campus "no contact order," an administrative remedy designed to curtail contact and communications between two or more individuals;
- Barring individuals from coming on campus for a period to time; and/or

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- Any other remedy that can be used to achieve the goals of this policy.

Any interim measures will not disproportionately impact the complainant. Requests for interim measures may be made by or on behalf of the complainant to any College official, including the Title IX Coordinator. The Title IX Coordinator is responsible for ensuring the implementation of interim measures and coordinating the College's response and provision of the interim measures with the appropriate offices on campus. Concerns regarding the appropriateness and/or implementation of the interim measures should be directed to the Title IX Coordinator.

## XI. College Obligations under this Policy

### A. Confidential Employees

Students at the College who wish to speak to someone who will keep all of the communications strictly confidential should speak to one of the following: 1) counselor or other staff member at their College counseling center; 2) pastoral counselor (i.e., counselor who is also a religious leader) if one is available; or 3) staff member in a women's or men's center.

The above individuals will not report any information about an incident to the College's Title IX Coordinator or other College employees without the student's permission. The only exception is in the case where there is an imminent threat to the complainant or any other person. A student who speaks solely to a "confidential" employee must be advised by that employee that, if the student wants to maintain confidentiality, the College may be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. However, these professionals will assist the student in receiving support. A student who first requests confidentiality may later decide to file a complaint with the College or report the incident to local law enforcement and thus have the incident investigated.

### B. "Responsible" Employees

"Responsible" employees have a duty to report incidents of sex discrimination, sexual harassment, gender-based harassment or sexual violence, including all relevant details, to the Title IX Coordinator. Such employees are not permitted under any circumstances to maintain a complainant's confidentiality. To the extent possible, information reported to responsible employees will be shared only with the Title IX Coordinator, the "responsible" employee's supervisor, and other people responsible for handling the College's response to the report. Before a complainant reveals any information to a responsible employee, the employee shall advise the complainant of the employee's reporting obligations—and if the complainant wants to maintain confidentiality, direct the complainant to confidential resources.

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The College has designated the following individuals as “responsible” employees: [(i) Title IX Coordinator and staff members in the Title IX Coordinator’s Office (ii) CEO, (iii). Vice President of Human Resources. Once a responsible employee (that is not the Title IX Coordinator or her/his staff) receives such information, that employee will inform the Title IX Coordinator of the report.

XII. Confidentiality, Requests Not to Conduct Investigations, or Not to Report to Outside Law Enforcement

After a complaint or report of an alleged incident of sex discrimination, sexual harassment, gender-based harassment, or sexual violence has been made to the Title IX Coordinator, a complainant or reporter may request that the matter be investigated without her/his identity or any details regarding the incident being divulged further. Alternatively, a complainant may request that no investigation into a particular incident be conducted or that an incident not be reported to outside law enforcement. The Title IX Coordinator will take requests seriously, while at the same time considering the College’s responsibility to provide a safe and nondiscriminatory environment for all students, including the student who reported the sexual violence.

If the Title IX Coordinator determines that she/he will maintain confidentiality as requested by the complainant, the College will take all reasonable steps to investigate the incident consistent with the request for confidentiality. However, a College’s ability to meaningfully investigate the incident and pursue disciplinary action may be limited by such a request. In any event, the College is required to abide by any laws mandating disclosure. If the Title IX Coordinator determines that the College must report the incident to outside law enforcement, the College will cooperate with any criminal investigation, which may include providing the outside law enforcement agency with any evidence in its possession relating to the incident.

An individual who speaks to a College employee about sexual discrimination, sexual harassment, gender-based harassment, or sexual violence should be aware that employees fall into three categories: (1) “confidential” employees, who have an obligation to maintain a complainant’s confidentiality regarding the incident(s); (2) “responsible” employees, who are required to report the incident(s) to the Title IX Coordinator; and (3) all other employees, who are strongly encouraged but not required to report the incident(s).

The Title IX Coordinator will keep confidential the complaint, report, witness statements, and any other information provided by the complainant, respondent, or witnesses and will disclose this information only to the complainant, respondent, or witnesses, as necessary to give fair notice of the allegations and to conduct the investigation; to law enforcement consistent with state and federal law; to other College officials as necessary

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for coordinating interim measures or for health, welfare, and safety reasons, and to government agencies who review the College's compliance with federal law. Information about complaints and reports, absent personally identifiable information, may be reported to College officials, and external entities for statistical and analysis purposes pursuant to federal and state law and College policy.

## XII. Retaliation

This policy prohibits retaliation against an individual who complains or reports a possible violation of the policy, or assists someone with a complaint or report of a violation of the policy, or participating in any manner in an investigation or resolution of a complaint or report. Adverse treatment includes threats, intimidation, coercion or discrimination (including harassment) and reprisals by either a complainant or respondent or by others such as friends or relatives of either a complainant or respondent. Any allegations of retaliation for making a report under this policy should be reported to the Title IX Coordinator or the CEO if the Title IX Coordinator is alleged to have engaged in the retaliation. Reports of retaliation will be investigated using the processes and standards outlined in this policy.

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