

**EMORY & HENRY COLLEGE**  
**POLICY PROHIBITING TITLE IX SEXUAL HARASSMENT**  
**-and-**  
**TITLE IX SEXUAL HARASSMENT GRIEVANCE PROCEDURES**

# **POLICY PROHIBITING TITLE IX SEXUAL HARASSMENT**

## **I. POLICY STATEMENT**

Emory & Henry College (the “College”) is committed to creating and maintaining a learning and work environment that is free from discrimination based on sex.

This Title IX Sexual Harassment Policy (the “Policy”) prohibits sex-based discrimination, including sex-based harassment, in all operations of the College. The Policy is intended to meet the College’s obligations under Title IX of the Education Amendments of 1972 (“Title IX”); the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), as amended by the Violence Against Women Reauthorization Act of 2013 (“VAWA”), with respect to its application to sex-based misconduct; and other applicable law and regulations.

### **Statement of Policy**

*Emory & Henry College is a community of trust whose existence depends upon strict adherence to standards of conduct set by its members. The College is committed to an atmosphere of human dignity in which effective collegial relationships are based on mutual respect. When an individual’s gender or sexuality falls victim to a lack of respect, the collegial nature of the institution is threatened. Sexual misconduct is a serious violation of these standards and threatening, offensive, violent or harassing behavior will not be tolerated. The College encourages all members of the Emory & Henry College community to be aware of both the consequences of sexual misconduct and the options available to victims of sexual misconduct and the accused. Sexual misconduct includes, but is not limited to, discrimination, sexual assault, sexual harassment, domestic violence, dating violence, and stalking. Emory & Henry College forbids retaliation against an individual for making a report of Prohibited Conduct under this policy or for participating in an investigation of an alleged violation of this policy.*

The Policy also prohibits retaliation against an individual: (1) who makes a report or files a Formal Complaint of Title IX Sexual Harassment; (2) about whom a report is made or against whom a Formal Complaint is filed; (3) who participates in the reporting, investigation, or adjudication of possible violations of this Policy; or (4) who engages in good faith opposition to what another individual reasonably believes to be Title IX Sexual Harassment under this Policy.

The College’s Title IX Coordinator is responsible for administering the Policy and related procedures. Any inquiries about the Policy or procedures should be referred to the College’s Title IX Coordinator, Shannon Patterson, who may be contacted as follows:

- Wiley Hall, Suite 101/Room 103, 276-944-6117, spatterson@ehc.edu

## II. APPLICABILITY AND SCOPE

This Policy applies to all members of the College community. This includes, but is not limited to, full and part-time students; full and part-time employees, including faculty members, staff, student employees, and temporary and contract employees; and certain third parties, including applicants for admission and employment, visitors, employees of College contractors, and individuals who are participating in a College Education Program or Activity, but who are neither enrolled in an academic program/course at the College nor employed by the College (e.g. individuals participating in a College summer camp or attending a College Education Program or Activity by invitation or that is open to the public). The Policy applies regardless of the gender, gender identity, or sexual orientation of the parties.

This Policy prohibits Title IX Sexual Harassment committed against any member of the College community in the United States and within a College Education Program or Activity.

The College retains the discretion to determine that conduct that occurs outside of the United States or outside of a College Education Program or Activity, including online conduct that is not part of a College Education Program or Activity, is within the scope of this Policy. In making this determination, the College will consider the severity of the alleged conduct, the risk of ongoing harm, whether both parties are members of the College community, the impact on College programs or activities, and whether off-campus conduct is part of a series of actions that occurred both on and off campus.

Alleged incidents of discrimination or other misconduct on the basis of sex that are not covered by this Policy may be governed by other College policies, including but not limited to:

- The Emory & Henry College Student Handbook, Student Code of Conduct

This Policy supersedes any conflicting information in any other College policy with respect to the definitions and procedures applicable to alleged Title IX Sexual Harassment. This Policy and the related procedures provide the exclusive remedy for alleged Title IX Sexual Harassment.

## III. DEFINITIONS

### A. Definitions of Conduct Prohibited by this Policy

**Title IX Sexual Harassment:** conduct on the basis of sex that satisfies one or more of the following –

- A College employee (including a faculty member) conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct. *Also known as quid pro quo sexual harassment.*

- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a College Education Program or Activity.
- **Sexual assault:** any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault can occur between individuals of the same or different sexes and/or genders.

Sexual Assault includes the following:

- **Rape:** the carnal knowledge of a person, 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/their temporary or permanent mental or physical incapacity;
  - **Sodomy:** oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her temporary or permanent mental or physical incapacity;
  - **Sexual Assault with an Object:** to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her temporary or permanent mental or physical incapacity;
  - **Fondling:** 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/their age or because of his/her/their temporary or permanent mental or physical incapacity;
  - **Incest:** sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
  - **Statutory Rape:** sexual intercourse with a person who is under the statutory age of consent.
- **Domestic violence:** a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of

Virginia, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Virginia.

- **Dating violence:** an act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship is determined based on a consideration of the (1) length of the relationship, (2) type of relationship, and (3) frequency of interaction between the persons involved in the relationship.
- **Stalking:** a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for his/her/their safety or the safety of others, or (2) suffer substantial emotional distress.

**Retaliation:** an adverse action or other form of negative treatment, including but not limited to intimidation, threats, coercion, discrimination or harassment, carried out in response to a good-faith reporting of or opposition to Title IX Sexual Harassment; an individual's or group's participation, including testifying or assisting in the College's Title IX Procedures; an individual's or group's refusal to participate in the College's Title IX Procedures; or other form of good faith opposition to what an individual reasonably believes to be Title IX Sexual Harassment under this Policy.

Individuals are also protected from retaliation for making good faith requests for accommodations on the basis of religion or disability.

To be a Policy violation, the challenged actions or treatment must be sufficiently serious to discourage a reasonable person from further reporting, participation, or opposition.

Charging an individual with a Policy violation for making a materially false statement in bad faith in the course the College's Title IX process does not constitute Retaliation. The exercise of rights protected under the First Amendment also does not constitute Retaliation.

## **B. Additional Definitions**

**Official with Authority:** an official of the College with the authority to institute corrective action on behalf of the College and notice to whom causes the College to respond to Title IX Sexual Harassment. For a full list of College officials that meet this definition, see [Appendix A](#) attached to this Policy.

**Complainant:** an individual who is alleged to be the victim of Title IX Sexual Harassment.

**Respondent:** the person or office, program, department, or group against whom an allegation or complaint is made; i.e., the individual(s), organizational unit(s), or group(s) who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Harassment.

**Third Party/Reporting Party:** an individual who has not experienced, but is aware of the occurrence of Prohibited Conduct and reports the violation.

**Report:** formal notification to the Title IX Coordinator or an Official with Authority, either orally or in writing, of the belief that Title IX Sexual Harassment occurred.

**Consent:** Informed (knowing); Voluntary (freely given); Active (not passive), meaning that through the demonstration of clear words or actions, a person has indicated permission to engage in mutually agreed-upon sexually activity. Consent cannot be obtained by Force. Force includes (a) the use of physical violence, (b) threats, (c) intimidation, and/or (d) coercion.

**College Education Program or Activity:** all operations of the College, including (1) those locations, events, and circumstances where the College exercises substantial control and (2) any building owned or controlled by a student organization recognized by the College. Conduct that occurs on-campus occurs within the College's Education Program or Activity. Conduct that occurs off campus in locations or at events with no connection to the College is unlikely to occur in the College's Education Program or Activity.

**Formal Complaint:** a document filed by a Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Respondent and requesting that the College investigate the allegation of Title IX Sexual Harassment. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, by email, or via the [Maxient reporting form](#).

**Incapacitation:** means that a person lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity. Consent cannot be gained by taking advantage of the diminished capacity of another, where the person initiating sexual activity knew or reasonably should have known that the other person's capacity was diminished. A person may have diminished capacity as a result of consumption of alcohol or other drugs.

**Confidential Employee:** (1) an employee that is a licensed medical, clinical, or mental health professional and ordained clergy (e.g., physicians, nurses, physician's assistant, psychologist, psychiatrists, professional counselors) when acting in that professional role in the provision of services to a patient who is a student.

**Responsible Employee:** any College employee who is not a confidential employee. A responsible employee is required by College policy to report to the College's Title IX Coordinator all relevant details (obtained directly or indirectly) about an incident of prohibited conduct that involves any student, faculty or staff, as a complainant, respondent, and/or witness, including dates, times, locations, and names of parties and witnesses.

**Student:** an individual who was selected for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at the College.

**Retaliation:** any adverse action or threat taken or made against an individual, including through third parties and/or legal counsel, for making a report of prohibited conduct or

participating in any investigation or proceeding related to this policy. (Applies to both parties)

**Amnesty:** All students, acting in good faith, who disclose any incident of prohibited conduct under these procedures to a college official or to a law enforcement shall not be subject to action under the College's Campus Code of Conduct for violation of alcohol and/or drug use occurring at or near the time of the commission of the prohibited conduct. The College will address this by providing support, education, and resources to the student(s).

**Advisor:** Students involved in a Title IX report and/or investigation are entitled to a support person who can be present with them during meetings and interviews and provide moral support. The person chosen can be a College employee or someone not affiliated with the College.

**Interim Measures:** are those services, accommodations, or other assistance that the College puts in place for complainants after receiving notice of alleged sexual misconduct but before any final outcomes—investigatory, disciplinary, or remedial—have been determined. (e.g. changes to class schedules, work schedule, living arrangements, etc.)

**No Contact Order:** prohibits a person from being in physical or verbal contact with someone and includes contact through Third Parties or through the use of technology (text messages, social media, etc.). The No Contact Order does not preclude necessary academic collaboration.

#### **IV. REPORTING AND RESOURCE OPTIONS**

##### **A. Reporting Title IX Sexual Harassment to the College**

The College encourages all individuals to report allegations of Title IX Sexual Harassment directly to the Title IX Coordinator or to an Official with Authority (see Appendix A for a complete list of Officials with Authority). Any person, whether or not they are the Complainant, may report Title IX Sexual Harassment to the Title IX Coordinator.

Reporting an incident of Title IX Sexual Harassment to the Title IX Coordinator or an Official with Authority allows the College to provide Supportive Measures (as described below), but does not necessarily result in the initiation of a grievance procedure.

A report may be made in person, in writing, by telephone, by email, or by the Maxient confidential reporting platform on the College Title IX website: (<https://www.ehc.edu/title-ix/>).

To make a report, contact the Title IX Coordinator at:

- Wiley Hall, Suite 101/Room 103, 276-944-6117, [spatterson@ehc.edu](mailto:spatterson@ehc.edu)

A report can also be made anonymously by telephone, in writing, or electronically through the website reporting system, Maxient, found on the College Title IX website. Depending on the level of information available about the incident or the individuals involved, the College's ability to respond to an anonymous report may be limited. The College will, however, take whatever steps it deems appropriate and in the best interests of the overall College community, consistent with the information available.

***Only a report to the Title IX Coordinator or an Official with Authority will trigger the College's obligation to respond to an allegation of Title IX Sexual Harassment.***

Any report involving a minor will be shared with law enforcement agencies and child protective services.

### **B. Required Reports by Responsible Employees**

Responsible Employees are expected to be discreet, but are required by the College to promptly consult with Title IX Coordinator by telephone, email, or online reporting form (Maxient) to share known details of an incident of alleged Title IX Sexual Harassment.

The following have been designated by the College as Responsible Employees

- College employees not classified as confidential employees.

A Responsible Employee's receipt of information will not automatically trigger an obligation to respond to an allegation of Title IX Sexual Harassment. Only a report to the Title IX Coordinator or an Official with Authority will trigger the College's obligation to respond to an allegation of Title IX Sexual Harassment.

### **C. Emergency Resources and Law Enforcement**

Emergency medical assistance and campus safety/law enforcement assistance are available 24/7 both on and off campus. Individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident that may pose a threat to safety or physical well-being or following a potential criminal offense.

**Law Enforcement Assistance:** Members of the College community who believe their safety or the safety of others is threatened or who have experienced or witnessed Title IX Sexual Harassment that may be criminal in nature should immediately call College Campus Police at 276-944-6222, or call 911 to reach local law enforcement.

- Campus Police: 276-944-6222 (office) | 276-356-7783 (cell)
- Local Law Enforcement: 911
- Abingdon Town Police: 276-628-3111
- Marion Town Police: 276-783-8145
- Smyth County Sheriff's Office: 276-783-7204
- Washington County Sheriff's Office: 276-676-6000

**Emergency Medical Assistance:** The College encourages individuals to seek assistance from a medical provider or crisis response service immediately after an incident that may require medical attention. This provides the opportunity to address physical well-being or health concerns, preserve any available evidence, and begin a timely investigative and remedial response.

Emotional care, counseling, and crisis response are available on and off campus:

- Powell Resource Center/Counseling  
Todd Stanley, LPC | toddstanley@ehc.edu | 276-944-6144  
Wiley Hall, 220  
After hours: 276-944-6222 and ask for counselor on-call
- Johnston Memorial Hospital (Open 24 hours)  
276-258-1000  
16000 Johnston Memorial Drive, Abingdon, VA 24211

#### **D. Confidential Resources**

Confidential Resources are employees or offices who are available to provide individuals with assistance, support, and additional information.

Confidential Resources are prohibited from disclosing confidential information unless (1) given permission by the person who disclosed the information; (2) there is an imminent threat of harm to self or others; (3) the conduct involves suspected abuse of a minor under the age of 18; or (4) as otherwise required or permitted by law or court order. Confidential Resources may be required to report non-identifying information to the Dean of Students for Clery Act crime reporting purposes.

The following College resources can provide counseling, information, and support in a confidential setting:

- Powell Resource Center/Counseling  
Todd Stanley, LPC | toddstanley@ehc.edu | 276-944-6144  
Wiley Hall, 220  
After hours: 276-944-6222 and ask for counselor on-call
- Director of Health Services  
Susan Stanley, RN | sstanley@ehc.edu | 276-944-6538  
College Health Center
- E&H Chaplains  
Sharon Wright, Interim Chaplain | swright@ehc.edu | 276-944-6836  
Sharon Bowers, Associate Chaplain | sbowers@ehc.edu | 276-944-6948  
Memorial Chapel

- Emory United Methodist Church  
David Jackson, Pastor | djackson@ehc.edu | 276-944-6841  
Memorial Chapel, Room 204
- College Athletic Training staff serving in a medical capacity.

#### **E. Community Resources**

- Abuse Alternatives  
1-800-987-6499 | TTY 1-423-652-9750 (Washington County)
- Family Resource Center  
1-800-613-6145 (Smyth County)
- Bristol Crisis Center  
276-466-2218
- Project Jane at Highlands Community Services  
1-855-426-5263
- Domestic Violence Officer (Washington County)  
276-676-6031
- Victim Witness Assistance (Washington County)  
276-676-4200
- Washington County Commonwealth Attorney  
276-676-6291
- Smyth County Commonwealth Attorney  
276-782-4042
- Legal Aid  
1-888-201-2722
- Virginia Victims Fund *The Virginia Victims Fund (VVF) is a state program created to help victims of violent crime with out of pocket expenses. These can include medical bills, prescriptions, and many other expenses.*  
1-800-552-4007
- RAINN National Sexual Assault Hotline  
1-800-656-4673 | www.rainn.org
- National Suicide Hotline  
1-800-273-8255
- LGBT National Help Center  
1-888-843-4564 | help@lgbthotline.org
- Loveisrespect.org (24 hour chat available)  
1-866-331-9947 | TTY 1-866-331-8453 | or TEXT “loveis” to 22522

#### **V. TIMEFRAME FOR REPORTING**

In order to maintain and support a community that is respectful and free from Title IX Sexual Harassment and to maximize the College’s ability to respond promptly and effectively, the College urges individuals to come forward with reports of Title IX Sexual

Harassment as soon as possible. The sooner a report is made, the more effectively it can be investigated, e.g. while witnesses are still available, memories are fresh, and documentation may still be available. *There is, however, no time limitation for reporting Title IX Sexual Harassment.*

## **VI. AMNESTY**

Sometimes students are reluctant to seek help after experiencing Title IX Sexual Harassment, or may be reluctant to help others who may have experienced Title IX Sexual Harassment, because they fear being held responsible by the College or law enforcement for drug use or underage alcohol consumption.

The College generally will not pursue disciplinary action against a student who makes a good faith report to the College, or who participates as a party or witness in the grievance process related to Title IX Sexual Harassment, for personal consumption of alcohol or other drugs (underage or illegal) which would otherwise be a violation of the Student Code of Conduct, provided the misconduct did not endanger the health or safety of others. The College may, however, engage in an assessment or educational discussion or pursue other non-disciplinary options regarding alcohol or other drug use.

## **VII. PARTICIPANT PRIVACY AND CONFIDENTIALITY**

The College recognizes that privacy is important. The College will attempt to protect parties' privacy to the extent reasonably possible. The Title IX Coordinator, investigators, advisors, facilitators of informal resolution, hearing officers, and any others participating in the process on behalf of the College shall keep the information obtained through the process private and, to the extent possible, confidential. All other participants in the process (including the Complainant, Respondent, non-College advisors, and witnesses) are encouraged to respect the privacy of the parties and the confidentiality of the proceedings and circumstances giving rise to the dispute and to discuss the matter only with those persons who have a genuine need to know.

While the College is committed to respecting the confidentiality of all parties involved in the process, it cannot guarantee complete confidentiality. Examples of situations in which confidentiality cannot be maintained include, but are not limited to, the following:

- When the College is required by law to disclose information (such as in response to a subpoena or court order).
- When disclosure of information is determined by the Title IX Coordinator to be necessary for conducting an effective investigation of the claim.
- When confidentiality concerns are outweighed by the College's interest in protecting the safety or rights of others.
- When a Formal Complaint is filed.

## VIII. INTAKE PROCESS FOR REPORTS OF TITLE IX SEXUAL HARASSMENT

Once a report of Title IX Sexual Harassment is made to or received by the Title IX Coordinator, the Title IX Coordinator shall review the report to determine appropriate next steps.

If the allegations reported, if true, would not constitute Title IX Sexual Harassment as defined in this Policy, the Title IX Coordinator will not proceed under this Policy and its Procedures. Instead, if the allegations reported, if true, would not constitute Title IX Sexual Harassment as defined in this Policy, the Title IX Coordinator may take one of the following actions: (1) address the report under the Sexual Misconduct Policy, as appropriate; (2) refer the matter to Office of the Provost, Dean of Students Office and/or Office of Human Resources; or (3) if the reported conduct would not constitute a violation of any College Policy, take no further action. The Title IX Coordinator will notify the Complainant of the action or referral.

After receiving a report of conduct that, if true, would constitute Title IX Sexual Harassment as defined in this Policy, the Title IX Coordinator will promptly contact the Complainant and:

- discuss the availability of Supportive Measures;
- explain that Supportive Measures are available with or without the filing of a Formal Complaint of Title IX Sexual Harassment;
- inform the Complainant of the process for filing a Formal Complaint of Title IX Sexual Harassment; and
- inform the Complainant that even if they decide not to file a Formal Complaint of Title IX Sexual Harassment, the Title IX Coordinator may do so by signing a Formal Complaint.

The Title IX Coordinator will also ensure that the Complainant receives a written explanation of available resources and options, including the following:

- Support and assistance available through College resources, including the Complainant's option to seek Supportive Measures regardless of whether they choose to participate in a College or law enforcement investigation;
- The Complainant's option to seek medical treatment and information on preserving potentially key forensic and other evidence;
- The process for filing a Formal Complaint of Title IX Sexual Harassment, if appropriate;
- The College's procedural options including Formal and Informal resolution;
- The Complainant's right to an advisor of the Complainant's choosing;
- The College's prohibition of Retaliation against the Complainant, the Respondent, the witnesses, and any reporting parties, along with a statement that the College will take prompt action when Retaliation is reported (and how to report); and

- The opportunity to meet with the Title IX Coordinator in person to discuss the Complainant's resources, rights, and options.

## **IX. SUPPORTIVE MEASURES**

Supportive Measures are non-disciplinary, non-punitive individualized services, accommodations, and other assistance that the College offers and may put in place, without fee or charge, after receiving notice of possible Title IX Sexual Harassment via a report to the Title IX Coordinator or an Official with Authority. Supportive Measures are designed to restore or preserve access to the College's Education Program and Activity, protect the safety of all parties and the College's educational environment, or deter Title IX Sexual Harassment, while not being punitive in nature or unreasonably burdening any party.

Supportive Measures are available regardless of whether the matter is reported to the College for the purpose of initiating any formal grievance proceeding and before, after, and regardless of whether a Formal Complaint is filed. A Complainant who requests Supportive Measures retains the right to file a Formal Complaint, either at the time the Supportive Measure is requested or at a later date. Any Complainant that requests Supportive Measures will be informed in writing of their right to simultaneously or subsequently file a Formal Complaint pursuant to this Policy.

The Title IX Coordinator will contact a Complainant after receiving notice of possible Title IX Sexual Harassment (1) to discuss the availability of Supportive Measures and (2) to explain that Supportive Measures are available with or without the filing of a Formal Complaint of Title IX Sexual Harassment. The Title IX Coordinator will consider the Complainant's wishes with respect to implementation of Supportive Measures.

Supportive Measures may also be requested by and made available to Respondents, witnesses, and other impacted members of the College community. The Title IX Coordinator will ultimately serve as the point of contact for any individual requesting Supportive Measures.

To determine the appropriate Supportive Measure(s) to be implemented, the College conducts an individualized assessment based on the unique facts and circumstances of a situation. Whether a possible Supportive Measure would unreasonably burden the other party is a fact-specific determination made by the College in its discretion that takes into account the nature of the education programs, activities, opportunities and benefits in which an individual is participating.

Examples of Supportive Measures include, but are not limited to, the following:

- Academic support services and accommodations, including the ability to reschedule classes, exams and assignments, transfer course sections, or withdraw from courses without penalty;
- Academic schedule modifications (typically to separate Complainant and Respondent);

- Work schedule or job assignment modifications (for College employment);
- Changes in work or housing location;
- An escort to ensure safe movement on campus;
- On-campus counseling services and/or assistance in connecting to community-based counseling services;
- Assistance in connecting to community-based medical services;
- Mutual no contact directives (to instruct individuals to stop all attempts at communication or other interaction with one another);
- Placing limitations on an individual's access to certain College facilities or activities;
- Work schedule or job assignment modifications, including suspending employment with or without pay consistent with any applicable written procedures (for College positions);
- Information about and/or assistance with obtaining personal protection orders;
- Leaves of absence;
- Increased monitoring and security of certain areas of the campus; or
- A combination of any of these measures.

The College will maintain Supportive Measures provided to the Complainant or Respondent as confidential to the extent that maintaining such confidentiality would not impair the College's ability to provide the Supportive Measures.

## **X. EMERGENCY REMOVAL AND ADMINISTRATIVE LEAVE**

**Emergency Removal of a Student-Respondent.** Where there is an immediate threat to the physical health or safety of any students or other individuals arising from reported Title IX Sexual Harassment, the College can remove a Student-Respondent from the College's education Program or Activity and issue any necessary related no-trespass and no-contact orders. The College will make the decision to remove a Student-Respondent from the College's Education Program or Activity based on an individualized assessment and risk analysis. 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.

**Administrative Leave of an Employee/Faculty-Respondent.** The College may place an Employee/Faculty-Respondent on administrative leave during the pendency of a Formal Complaint. An employee alleged to have committed Title IX Sexual Harassment will not be placed on administrative leave unless and until a Formal Complaint has been filed with the College. The College, in its discretion and based on the circumstances, will determine whether any administrative leave imposed is to be imposed with or without pay or benefits.

## **Title IX Sexual Harassment Grievance Procedures**

### **XI. FORMAL COMPLAINTS OF TITLE IX SEXUAL HARASSMENT**

#### **A. Filing a Formal Complaint**

A Complainant has the option to file a Formal Complaint against a Respondent alleging Title IX Sexual Harassment and requesting that the College investigate those allegations. In order to file a Formal Complaint, the Complainant should contact the Title IX Coordinator and sign the College's [Formal Complaint form](#). This may be done online, in person, or by email by contacting the Title IX Coordinator.

When a Complainant does not wish to file a Formal Complaint on their own behalf, the Title IX Coordinator may, in their discretion, file a Formal Complaint by signing the Formal Complaint form. When the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not the Complainant or otherwise a party. While the Complainant may choose to not participate in the grievance process initiated by the Title IX Coordinator's signing of a Formal Complaint of Title IX Sexual Harassment, the Complainant will still be treated as a party entitled to inspect and review evidence and to receive all notices, including the notice of allegations, the notice of hearing, and the notice of outcome. At no time will the College coerce or retaliate against a Complainant in order to convince the Complainant to participate in the grievance process.

After a Formal Complaint is filed, the matter will proceed to either the Informal Resolution process or Formal Resolution process, as described below. A Formal Complaint must be filed before the College can commence an investigation or the Informal Resolution process under the Title IX Sexual Harassment Procedures.

#### **B. Mandatory Dismissal of Formal Complaint for Title IX Purposes**

When the Title IX Coordinator receives a Formal Complaint alleging conduct, which, if true, would meet the definition of Title IX Sexual Harassment, the Title IX Coordinator will evaluate the allegations in the Formal Complaint to determine whether the allegations satisfy the following conditions:

- The Title IX Sexual Harassment conduct is alleged to have been perpetrated against a person in the United States;
- The Title IX Sexual Harassment conduct is alleged to have taken place within the College's programs and activities; and

- At the time of the filing or signing of the Formal Complaint, the Complainant is participating in or attempting to participate in the College's programs or activities.

If the Title IX Coordinator determines that all of the above conditions are satisfied, the College will address the Formal Complaint of Title IX Sexual Harassment under these Procedures.

If the Title IX Coordinator determines that the allegations in the Formal Complaint do not meet the definition of Title IX Sexual Harassment or that not all of the conditions above are satisfied, the College will dismiss the Formal Complaint for Title IX purposes. However, if the College dismisses the Formal Complaint for Title IX purposes, it may, in its discretion, address the Formal Complaint under the Sexual Misconduct Policy, as appropriate.

Additionally, if the Title IX Coordinator investigates a matter as Title IX Sexual Harassment based on the allegations in the Formal Complaint, but, during the course of the investigation, the Title IX Coordinator determines that all of the above conditions are no longer satisfied, the College will dismiss the Formal Complaint for Title IX purposes and instead pursue the matter under the Sexual Misconduct Policy as appropriate and applicable, or will dismiss the Formal Complaint in its entirety.

If the Title IX Coordinator determines that a Formal Complaint of Title IX Sexual Harassment will not be adjudicated under the Title IX Procedures, either at the outset after reviewing the Formal Complaint or during the course of the investigation, the parties will receive simultaneous written notice of the dismissal and the reasons for that dismissal.

Either party may appeal the decision to dismiss a Formal Complaint as explained below in Section XVI.

### **C. Consolidation of Formal Complaints**

In their discretion, the Title IX Coordinator may consolidate multiple Formal Complaints for resolution under this Policy. Consolidation might involve a single Complainant or multiple Complainants, a single Respondent or multiple Respondents, and allegations of conduct that is temporally or logically connected (even where some of that alleged conduct is not Title IX Sexual Harassment or where the above conditions are not met with respect to some of the alleged conduct). If Formal Complaints involving multiple Complainants and/or multiple Respondents are consolidated, each party will have access to all of the information being considered; including as provided by all involved Complainants, all involved Respondents, and all involved witnesses. The decision to consolidate Formal Complaints is not subject to appeal.

### **D. Notice of Allegations**

If a Complainant files, or the Title IX Coordinator signs, a Formal Complaint of Title IX Sexual Harassment within the scope of this Policy, the Title IX Coordinator will simultaneously send both parties a written Notice of Allegations that contains the following:

- Notice that the Informal and Formal Resolution processes comply with the requirements of Title IX;
- Notice of the allegations potentially constituting Title IX Sexual Harassment, providing sufficient detail for a response to be prepared before any initial interview, including (1) identities of the parties, if known; (2) the conduct allegedly constituting Title IX Sexual Harassment; and (3) the date and location of the alleged incident, if known;
- A statement that the Respondent is presumed not responsible for the alleged Title IX Sexual Harassment and a determination regarding responsibility is made at the conclusion of the grievance process;
- Notice that each party may have an advisor of their choice who may be, but is not required to be, an attorney and who may inspect and review evidence;
- Information regarding the availability of support and assistance through College resources and the opportunity to meet with the Title IX Coordinator in person to discuss resources, rights, and options;
- Notice of the College’s prohibition of Retaliation of the Complainant, the Respondent, and witnesses; that the College will take prompt action when Retaliation is reported; and how to report acts of Retaliation; and
- Notice that the Student Code of Conduct prohibits knowingly making false statements and knowingly submitting false information during the grievance process.

If, during the course of an investigation, the Title IX Coordinator decides to investigate additional allegations about the Complainant or Respondent relating to the same facts or circumstances but not included in the earlier written notice, the Title IX Coordinator will provide an amended Notice of Allegations to the parties.

## **XII. TIMELINES**

Throughout these Procedures, the College designates timelines for different steps of the process. The Title IX Coordinator has authority to extend such timelines for good cause. Good cause may include, but is not limited to, considerations such as the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disability. In the case of such an extension, the Title IX Coordinator will notify the affected parties of the extension, including the reason(s) for the extension.

The phrase “business days” shall refer to those days ordinarily recognized by the College academic calendar as workdays.

### **XIII. ADVISORS**

Throughout the resolution process (whether informal or investigative), the Complainant and a Respondent may each have an advisor of their choice to provide support and guidance. An advisor may accompany the Complainant/Respondent to any meeting with the Title IX Coordinator, the investigator, or to a hearing.

Prior to the hearing, a party's advisor has an exclusively non-speaking role, and may not otherwise present evidence, argue, or assert any right on behalf of the party. And, at the hearing, an advisor's role is limited to quietly conferring with the Complainant/Respondent through written correspondence or whisper. An advisor may not speak for the party they are supporting or address any other participant or the Hearing Officer except as necessary to conduct cross-examination as explained below. Advisors must conduct the cross-examination of all witnesses directly, orally, and in real time at the hearing. Neither party may conduct cross-examinations personally.

The College (including any official acting on behalf of the College such as the Hearing Officer) has the right at all times to determine what constitutes appropriate behavior on the part of an advisor. For example, the College will not tolerate an advisor questioning a witness in an abusive, intimidating, or disrespectful manner. The College has the right to take appropriate steps to ensure compliance with the Policy and Procedures, including by placing limitations on the advisor's ability to participate in future meetings and proceedings.

### **XIV. INFORMAL RESOLUTION**

Informal Resolution is an alternative resolution process that does not include an investigation or hearing. Informal Resolution is typically a spectrum of facilitated, or structured, and adaptable processes between the Complainant, the Respondent, and/or other affected community members that seeks to identify and meet the needs of the Complainant while providing an opportunity for the Respondent to acknowledge harm and seek to repair the harm (to the extent possible) experienced by the Complainant and/or the College community.

Informal Resolution is not available in cases involving a Student-Complainant and Employee-Respondent. Additionally, the Informal Resolution process may not commence unless and until a Formal Complaint of Title IX Sexual Harassment is filed. Informal Resolution may be available, under appropriate circumstances, at any time prior to reaching a determination regarding responsibility.

The Title IX Coordinator reserves the right to determine whether Informal Resolution is appropriate in a specific case. Before the Title IX Coordinator commences the Informal Resolution process, both parties must provide informed consent in writing. In addition, where both parties and the College determine that Informal Resolution is worth exploring, the College will provide the parties with a written notice disclosing:

- the allegations,

- the requirements of the Informal Resolution process, and
- any consequences resulting from participating or withdrawing from the process, including the records that may be maintained by the College.

At any time prior to reaching a resolution, either party may withdraw from the Informal Resolution process and proceed with the formal grievance process for resolving the Formal Complaint.

Once an Informal Resolution is agreed to by all parties, the resolution is binding and the parties generally are precluded from resuming or starting the formal grievance process related to that Formal Complaint. Any breach of the terms of an Informal Resolution agreement may result in disciplinary action.

## **XV. FORMAL RESOLUTION PROCESS**

### **A. The Investigation**

An investigation affords both the Complainant and the Respondent an opportunity to submit information and other evidence and to identify witnesses. Although the parties have the option to submit evidence and suggest witnesses to be interviewed, the burden of gathering information in the investigation is with the College.

When the formal resolution process is initiated, the Title IX Coordinator will designate up to two investigators who will be responsible for gathering evidence directly related to the allegations raised in a Formal Complaint of Title IX Sexual Harassment. The investigator(s) must be impartial, free of any actual conflict of interest, and have specific and relevant training and experience. Specifically, the investigator will be trained on (1) issues of relevance; (2) the definitions in the Policy; (3) the scope of the College's Education Program or Activity; (4) how to conduct an investigation; and (4) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

A Complainant or a Respondent who has concerns that the assigned investigator cannot conduct a fair and unbiased review (e.g., has a personal connection with one of the parties or witnesses, etc.) may report those concerns to the Title IX Coordinator, who will assess the circumstances and determine whether a different investigator should be assigned to the matter.

#### **1. Investigation Timeframe**

The investigation of a Formal Complaint will be usually concluded within 90 days of the filing of the Formal Complaint. The parties will be provided with updates on the progress

of the investigation, as needed, and will be alerted if the process will go beyond the 90-day timeframe.

## **2. Interviews and Gathering Evidence**

**Interviews:** The investigator will interview the Complainant and Respondent in order to review the disciplinary process and to hear an overview of each party's account of the incident. Before any interview, the individual being interviewed will be informed in writing of the date, time, location, participants, and purpose of the interview. Such notice will be provided with sufficient time for the individual to prepare for the interview. The Respondent will be informed in writing if, during the investigation, additional information is disclosed that may constitute additional Title IX Sexual Harassment under the Policy.

Following the interview, each party will be provided with a draft summary of their statement so that they have the opportunity to comment on the summary and ensure its accuracy and completeness. The parties' feedback may be attached or otherwise incorporated into the final investigative report to the extent deemed relevant by the investigator.

**Evidence:** During the interview, and as the investigator is gathering evidence, each party will be given the opportunity to identify witnesses and to provide other information, such as documents, communications, photographs, and other evidence. Although the College has the burden of gathering evidence sufficient to reach a determination regarding responsibility, all parties are expected to share any relevant information and/or any information that is requested by the investigator. Such information shared by the parties with the investigator may include both inculpatory and exculpatory evidence.

The investigator will review all information identified or provided by the parties, as well as any other evidence they obtain. Evidence obtained as part of the investigation that is directly related to the allegations in the Formal Complaint will be shared with the parties for their review and comment, as described below.

## **3. Draft Investigative Report and Opportunity to Inspect and Review Evidence**

After all the evidence is gathered, and the investigator has completed witness interviews, the investigator will prepare a draft investigative report. The Title IX Coordinator will send each party, and the party's advisor, if any, the draft investigative report.

The Title IX Coordinator will also provide the parties, and their advisors, if any, with copies of all evidence directly related to the allegations of the Formal Complaint that was gathered during the investigation. Before doing so, the investigator(s) and/or Title IX Coordinator may redact information in the evidence that is not directly related to the allegations of the Formal Complaint; information prohibited from disclosure pursuant to a recognized legal privilege; and/or a party's medical or mental health information/records unless the party consents in writing to the disclosure. The evidence may be provided in either an electronic format or a hard copy. All parties and their advisors will sign a non-disclosure agreement that permits review and use of the evidence only for purposes of the Title IX grievance.

The parties will have ten (10) days to review the draft investigative report and evidence and to submit a written response. The parties' written responses must include any comments, feedback, additional documents, evidence, requests for additional investigation, names of additional witnesses, or any other information they deem relevant to the investigation. Any party providing new evidence in their written response should identify whether that evidence was previously available to them, and if so, why it was not previously provided. The parties' feedback will be attached to the final investigation report.

Generally, only information that is provided to, or otherwise obtained by, the investigator during the course of the investigation will be considered in the determination of whether a Policy violation occurred. Any and all information for consideration by the Hearing Officer must be provided to the investigator prior to the final investigation report and will not be allowed during the hearing unless it can be clearly demonstrated that such information was not reasonably available to the parties at the time of the investigation or that the evidence has significant relevance to a material fact at issue in the investigation. If, after the final investigation report is issued, a party provides or identifies evidence that they did not previously provide or identify despite that evidence being reasonably available to them during the investigation process, the Hearing Officer may, at their discretion, draw a negative inference from the party's delay in providing or identifying the evidence.

The investigator will review the feedback to the report, interview additional relevant witnesses (as the investigator deems appropriate).

#### **4. Final Investigative Report**

After the time has run for both parties to provide any written response to the draft investigative report and evidence, and after the investigator completes any additional investigation, the investigator will complete a final investigative report. The investigator(s) will submit the final investigative report of relevant information to the Title IX Coordinator. The Title IX Coordinator will review the report for completeness and relevance, and direct further investigation as necessary before the report is provided to the Complainant and Respondent.

The investigator and/or Title IX Coordinator, as appropriate, may exclude and/or redact information or evidence from the final investigative report as follows:

- Information that is not relevant to the allegations raised in the Formal Complaint;
- Information about a Complainant's prior or subsequent sexual activity, unless such information about the Complainant's prior sexual behavior is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent; and
- Medical or mental health information, treatment and/or diagnosis, unless the party consents.

After the Title IX Coordinator reviews the report and any further investigation, if necessary, is completed, the final report will be shared with the Complainant, Respondent, and their advisors. The parties will have ten (10) business days to respond in writing to the final investigative report. The Complainant and Respondent must also submit in writing by that time the names of any witnesses the Complainant/Respondent wishes to testify and a summary of information each witness would provide through their testimony. Names of witnesses provided by the Complainant/Respondent will be shared with the other party.

After the ten-business-day deadline, the Complainant and Respondent may not provide any additional written information for the hearing, unless that information was not reasonably available prior to the closing of the ten-business-day window. The Hearing Officer determines whether to grant exceptions to this ten-business-day deadline.

The Title IX Coordinator will determine what, if any, final changes or additions are made to the final investigative report based upon its review of the report and feedback as described above from the Complainant and Respondent.

The matter will then be referred to a Hearing Officer.

## **B. Hearing Procedure**

### **1. The Hearing Officer(s)**

The Hearing Officer(s) will be selected by the College.

All Hearing Officers receive annual training on the following: how to conduct a hearing; issues of relevance, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant; how to serve impartially by, among other things, avoiding prejudice of the facts at issue, conflicts of interest, and bias; and other relevant issues. The Hearing Officer will also be trained on any technology that might be used during a hearing.

### **2. Notice**

Both the Complainant and the Respondent will be notified in writing of the date and time of the hearing and the name of the Hearing Officer at least five calendar days in advance of the hearing, with the hearing to occur no fewer than ten days after the parties are provided with the final investigative report. The Hearing Officer will receive the names of the Complainant and the Respondent at the same time.

### **3. Bias and Conflict Of Interest**

The Hearing Officer must be impartial and free from bias or conflict of interest, including bias for or against a specific Complainant or Respondent or for or against complainants and respondents generally. If the Hearing Officer has concerns that they cannot conduct a fair or unbiased review, the Hearing Officer may report those concerns to the Title IX Coordinator and a different Hearing Officer will be assigned.

A Complainant and/or Respondent may challenge the participation of the Hearing Officer because of perceived conflict of interest, bias, or prejudice. Such challenges, including rationale, must be made within 48 hours of notification of the name of the Hearing Officer.

At their discretion, the Title IX Coordinator and Dean of Students will determine whether such a conflict of interest exists and whether a Hearing Officer should be replaced. Postponement of a hearing may occur if a replacement Hearing Officer cannot be immediately identified.

#### **4. Pre-Hearing Procedures and Ground Rules**

The Dean of Students and/or the Title IX Coordinator may establish pre-hearing procedures relating to issues such as scheduling, hearing structure and process, witness and advisor participation and identification, and advance determination of the relevance of certain topics. The Hearing Officer will communicate with the parties prior to the hearing with respect to these issues and establish reasonable, equitable deadlines for party participation/input.

The Hearing Officer also has wide discretion over matters of decorum at the hearing, including the authority to excuse from the hearing process participants who are unwilling to observe rules of decorum.

#### **5. Participation of Advisors**

Both parties must be accompanied by an advisor to the hearing. If a party does not have an advisor for the hearing, the College will provide an advisor of the College's choice for that party.

Each party's advisor must conduct any cross-examination of the other party and any witnesses. Apart from conducting cross-examination, the parties' advisors do not have a speaking role at the hearing; an advisors' participation is limited to conferring with the party at intervals set by the Hearing Officer.

#### **6. Participation of Parties And Witnesses**

A party or witness who elects to participate in the process is expected, although not compelled, to participate in all aspects of the process (e.g., a witness who chooses to participate in the investigation is expected to make themselves available for a hearing if requested to do so).

If a party or witness elects to not participate in the live hearing, or participates in the hearing but refuses to answer questions posed by the other party through their advisor, the Hearing Officer will not rely on any statement of the non-participating party or witness in reaching a determination regarding responsibility. The Hearing Officer will never draw any inferences based solely on a party's or witness's absence or refusal to answer questions.

**“Statements”** for purposes of the hearing means factual assertions made by a party or witness. Statements might include factual assertions made during an interview or conversation, written by the individual making the assertions (including those found in

a Formal Complaint), and memorialized in the writing of another (e.g. in an investigative report, police report, or medical record). Where evidence involves intertwined statements of both parties (e.g. a text message exchange or an email thread) and one party refuses to participate in the hearing or submit to questioning about the evidence while the other does participate and answer questions, the statements of only the participating party may be relied on by the Hearing Officer.

If a party does not appear for the hearing, their advisor may still appear for the purpose of asking questions of the other party and witnesses. If a non-participating party's advisor also does not appear for the hearing, the College will appoint an advisor to participate in the hearing for the purpose of asking questions of the other party on behalf of the non-participating party.

Parties are reminded that, consistent with the prohibition on Retaliation, intimidation, threats of violence, and other conduct intended to cause a party or witness to not appear for a hearing are expressly prohibited.

## **7. Witnesses**

The Hearing Officer may, at their discretion, exclude witnesses or witness testimony the Hearing Officer considers irrelevant or duplicative. The Hearing Officer will explain any decision to exclude a witness or testimony as not relevant.

## **8. Electronic Devices and Record the Hearing**

A Respondent, Complainant, advisor, and/or witness may not bring electronic devices that capture or facilitate communication (e.g., computer, cell phone, audio/video recorder, etc.) into a hearing room, unless authorized by the Hearing Officer.

The Hearing Officer will arrange for there to be an audio recording, or audiovisual recording, or transcript (or combination) of the hearing, which will be made available to the parties for review and kept on file by the College for seven years.

Reasonable care will be taken to create a quality recording or transcript and “minimize technical problems, however, technical problems that result in no recording or an inaudible recording are not a valid basis for appeal.”

## **9. Hearing Location and Use of Technology**

The hearing will be live, with all questioning conducted in real time. Upon request, the parties may be located in separate rooms (or at separate locations) with technology enabling the Hearing Officer and the parties to simultaneously see and hear the party or witness answering questions. A hearing may be conducted entirely virtually through the use of

remote technology so long as the parties and Hearing Officer are able to hear and see one another in real time.

## **10. Hearing Structure**

The Hearing Officer has general authority and wide discretion over the conduct of the hearing. Although the Hearing Officer has discretion to modify the hearing structure, the general course of procedure for a hearing is as follows:

- Introductions;
- Respondent's statement accepting or denying responsibility;
- Opening Statement from the Complainant;
- Opening Statement from the Respondent;
- Questioning of the Complainant by the Hearing Officer;
- Cross-examination of the Complainant by the Respondent's advisor;
- Questioning of the Respondent by the Hearing Officer;
- Cross-examination of the Respondent by the Complainant's advisor;
- Hearing Officer questioning of other witnesses (if applicable);
- Cross-examination of other witnesses by the parties' advisors;
- Closing comments from the Complainant; and,
- Closing comments from the Respondent.

A Complainant or Respondent may not question each other or other witnesses directly; they must conduct the cross-examination through their advisors. Before a party or witness answers a cross-examination or other question, the Hearing Officer will first determine whether the question is relevant. The Hearing Officer may exclude irrelevant information and/or questions. The Hearing Officer will explain any decision to exclude a question or information as not relevant.

The evidence collected as part of the investigative process will be made available at the hearing to give each party an equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

### **C. Determination Regarding Responsibility**

Following the hearing, the Hearing Officer will consider all relevant evidence and make a determination, by preponderance of the evidence whether the Respondent has violated the Policy.

A preponderance of the evidence standard means that, based on the information acquired during the investigation and the hearing, it is more likely than not the Respondent engaged in the alleged conduct.

### **D. Remedies And Sanctions**

In the event the Hearing Officer(s) finds the Respondent responsible for a violation of the College's policies, appropriate remedies and sanctions will be determined by the Hearing Officer. Remedies are designed to resort or preserve equal access to the College's Education Program or Activity and may be disciplinary or punitive.

Upon a finding of responsibility, the Complainant will be provided with remedies designed to restore access to the College's educational and employment programs and activities.

Sanctions for a finding of responsibility for Student Respondents include, but are not limited to, expulsion, suspension, disciplinary probation, recommended counseling, and/or other educational sanctions. In determining (a) sanction(s), the Hearing Officer(s) will consider whether the nature of the conduct at issue warrants removal from the College, either permanent (expulsion) or temporary (suspension). Other factors pertinent to the determination of what sanction applies include, but are not limited to, the nature of the conduct at issue, prior disciplinary history of the Respondent (shared only upon a finding of responsibility for the allegation), previous College response to similar conduct, and College interests (e.g., in providing a safe environment for all).

Sanctions for findings of responsibility for Staff and Faculty Respondents include, but are not limited to, progressive disciplinary action; prohibition from various academic or managerial responsibilities involving the Complainant or others; letter of reprimand placed in a Respondent's personnel file; restrictions on a Respondent's access to College programs or facilities; limitations on merit pay or other salary increases for a specific period; or demotion, suspension, or dismissal/termination from the College, or a recommendation that a separate process required to impose such action be commenced.

### **E. Written Notice Regarding Outcome and, if applicable, Sanctions/Remedies**

After a determination regarding responsibility and, if applicable, a determination regarding appropriate remedies and/or sanction has been made, the Complainant and Respondent will receive a simultaneous written notification including the decision regarding responsibility and, as applicable, remedies and sanctions. The written notification will include the following:

- Identification of the allegations potentially constituting Title IX Sexual Harassment;

- A description of the procedural steps taken from the receipt of the Formal Complaint of Title IX Sexual Harassment, with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the College's code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the College's Education Program or Activity will be provided by the College to the Complainant; and
- The College's procedures and permissible bases for the Complainant and Respondent to appeal.

The written notification of outcome becomes final seven days after it is sent to the Parties, unless an appeal is filed on or before that day.

- F. Transcript Notations.** [Pursuant to Virginia law \(23.1-900\)](#), the College will request that the Registrar places a hold and/or notation on the academic transcript of any student who has been (1) suspended, (2) dismissed, or (3) who has withdrawn from the College while under investigation for an offense involving sexual violence at the institution. This notation will be removed if (a) a student is subsequently found not responsible or (b) a student who has been suspended for prohibited conduct pursuant to policy, has (i) completed the term and conditions of a suspension and (ii) has been determined by the College to be in good standing pursuant to all applicable academic and non-academic standards. The College will notify each student that any such suspension, dismissal, or withdrawal will be documented on the student's academic transcript.

## **XVI. APPEALS**

A Respondent and Complainant both have the right to appeal (1) The Title IX Coordinator's decision to dismiss a Formal Complaint of Title IX Sexual Harassment; and (2) the Hearing Officer(s)'s decision regarding responsibility.

A party wishing to appeal the Title IX Coordinator's decision to dismiss a Formal Complaint of Title IX Sexual Harassment must file a written appeal statement within five business days of the date the decision to dismiss is communicated to the parties.

A party wishing to appeal a Hearing Officer's decision must file a written appeal statement within five business days of the date the written decision is sent to the parties. Appeal statements are limited to ten pages. The written appeal statement must identify the ground(s) upon which the appeal is being made.

The only grounds for appeal are:

- New information not reasonably available at the time of the decision/hearing that could affect the outcome of the matter;
- The Title IX Coordinator, investigator, or Hearing Officer(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent specifically that affected the outcome of the matter; and/or
- Procedural error(s) that affected the outcome of the matter.

An appeal is not a re-hearing of the case. The College may summarily deny an appeal if it is not based on one of the enumerated grounds for appeal.

**Appellate decision-maker.** If the College does not summarily deny the appeal, the College will appoint an appellate decision-maker(s). The appellate decision-maker(s)'s role is limited to reviewing the underlying record of the investigation and hearing, the appealing party's ("Appellant") written appeal statement, any response to that statement by the other party ("Appellee"), and information presented at a meeting of the appellate decision-maker, if convened.

**Conflict of interest.** The College will notify the Appellant and Appellee of the name of the appellate decision-maker. The Appellant and/or Appellee may challenge the participation of an appellate decision-maker because of an actual conflict of interest, bias, or prejudice. Such challenges, including rationale, must be submitted in writing to the College no later than 48 hours after notification of the name of the appellate decision-maker. The College will determine whether such a conflict of interest exists and whether an appellate decision-maker should be replaced.

**Response to Appeal.** The appellate decision-maker will provide written notice to the Appellee that an appeal has been submitted and will give the Appellee an opportunity to review the appeal statement. The Appellee may submit a written response to the appeal ("response"). The response is due five business days from the date the College provides written notice of the appeal to the Appellee. The College will provide the Appellant an opportunity to review the response.

**Written Decision.** The appellate decision-maker will provide written notification of the final decision to the Appellant and Appellee simultaneously.

The appellate decision-maker will typically notify the parties of its decision regarding an appeal in writing within five business days from receipt of the appeal statement. If the decision will take longer, the parties will be informed. The decision of the appellate decision-maker will be final and no subsequent appeals are permitted.

## **XVII. CONFIDENTIALITY**

The College will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of Title IX Sexual Harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or other proceeding arising thereunder.

## **XVIII. RECORD RETENTION**

The College shall retain for a period of seven years after the date of case closure: the official file relating to a formal resolution, including any investigation hearing, sanctioning, and/or appeals processes involving allegations of Title IX Sexual Harassment. In cases in which a Respondent was found to have violated the Policy and was expelled or terminated, the College may retain such official case files indefinitely.

## APPENDIX A

The following is a list of College officials designated as “Officials with Authority.” An Official with Authority, as defined in this Policy, refers to an official of the College with the authority to institute corrective action on behalf of the College, and notice to whom causes the College to respond to Title IX Sexual Harassment.

- John Wells, President  
276-944-6107 | Wiley Hall 138 | jwwells@ehc.edu
- Michael Puglisi, Provost  
276-944-6122 | Wiley Hall | mpuglisi@ehc.edu
- Lou Fincher, Vice President for School of Health Sciences  
276-944-6342 | Health Sciences/Marion Campus, B206 | lfincher@ehc.edu
- Tracey Wright, Dean of Students  
276-944-6490 | Wiley Hall | tlwright@ehc.edu
- Tracy Peery, Director of Human Resources  
276-944-6112 | Scarborough House | tpeery@ehc.edu
- Shannon Patterson, Title IX Coordinator  
276-944-6117 | Wiley Hall, Room 103 (Suite 101), spatterson@ehc.edu