

**Frequently Asked Questions  
Wheaton College  
Sexual and Gender-Based Misconduct Policy for Students**

**January 4, 2017**

On January 4, 2017, Wheaton College ('the College') implemented a revised Sexual and Gender-Based Misconduct Policy ('the Policy'). Below are frequently asked questions concerning the Policy. For more information or to report Sexual and Gender-Based Misconduct, please contact Rachael Pauze, Director of Title IX Compliance at (508) 286-3231, [pauze\\_rachael@wheatoncollege.edu](mailto:pauze_rachael@wheatoncollege.edu), or in person at her office, Room 227 in the Science Center.

\*This document will be updated on an ongoing basis as our community raises questions regarding the Policy or process, so please feel free to check back frequently.

### Policy Purpose and Scope

**1. What is the purpose of the Policy?**

- A. The Policy has dual purposes. It serves as a measure and provides a process for the College to determine whether behaviors violate the College's community values. It also serves as a guide to the expectations the College's community has, preventatively, for sexual communication, sexual responsibility, and sexual respect.

**2. What is the scope of the Policy?**

- A. The Policy covers any Sexual and Gender-Based Misconduct that occurs: (1) on campus or in the context of any College programs, activities, or events; or (2) off-campus and outside of the context of any College programs, activities, or events when the effects cause a discriminatory impact on campus or at any of the College's programs, activities, or events. Sexual and Gender-Based Misconduct perpetrated by a third party not affiliated with the College falls within the scope of the Policy. If you are unsure about whether conduct falls within the scope of the Policy, the College encourages you to report it to the Director of Title IX Compliance who is there to assist in making these determinations. Such conduct may also be prohibited under another College policy and the Director of Title IX Compliance can help to refer you to the applicable College policy in these cases.

## Reporting Sexual and Gender-Based Misconduct

Several FAQs in this section focus on the difference between Responsible Employees and Confidential Resource Persons. Since this issue can be complicated, please do not hesitate to contact the Director of Title IX Compliance with any questions related to this at (508) 286-3231, [pauze\\_rachael@wheatoncollege.edu](mailto:pauze_rachael@wheatoncollege.edu), or in person at her office, Rm 227 in the Science Center.

### **3. I want to report an incident of Sexual and Gender-Based Misconduct, but I am fearful of being retaliated against. What is the College's position on retaliation?**

- A. The College will not tolerate retaliation in any form against any persons for their participation or involvement in the reporting, investigation, and/or resolution of matters subject to the Policy. The College will take appropriate steps to prevent and address retaliatory conduct immediately. The College will proactively follow up with Reporting Parties and others to determine whether any retaliation or new incidents of harassment occur. Independent action and disciplinary sanctions under the Policy may be taken against anyone engaging in retaliation. Retaliation may constitute a violation of the Policy even when the underlying report made does not result in a finding of responsibility.

### **4. I think I am being retaliated against because of my report of Sexual and Gender-Based Misconduct. With whom should I speak about this and what will the College do to address the retaliation?**

- A. Any and all instances of retaliation should be reported to the Director of Title IX Compliance immediately. If you think you are being retaliated against, please contact the Director of Title IX Compliance at (508) 286-3231, [pauze\\_rachael@wheatoncollege.edu](mailto:pauze_rachael@wheatoncollege.edu), or at her office in the Science Center, Rm. 227. The College takes allegations of retaliation very seriously and will investigate them under the same processes and standards outlined in the Policy.

### **5. I want to speak confidentially about Sexual and Gender-Based Misconduct that occurred. Who should I contact?**

- A. There are several individuals who are designated as Confidential Resource Persons because of their specific role on campus. This includes staff at the counseling center as well as staff of New Hope Inc., which is contracted to provide confidential support to the College community. So long as these individuals are working within their protected role, they may keep information that is shared with them confidential. Confidential Resource Persons are instructed to inform individuals of their right to file a complaint with the College and may assist in that process, but they are not obligated to report identifying information about behavior that may implicate the Policy without consent. Please see this [chart](#) for a list of Confidential Resource Persons.

**6. I want to tell someone at the College about Sexual and Gender-Based Misconduct that occurred. Who are “Responsible Employees” and what are their obligations under the Policy?**

- A. Responsible Employees include all College employees except for persons with a statutory privilege (licensed psychologists, mental health counselors, social workers, clergy and designated medical personnel) who are acting within that privileged role, and individuals the College explicitly designates as Confidential Resource Persons. Student employees are also not considered Responsible Employees unless they are residential advisors or Student academic advisors. Residential advisors must report all disclosures of Sexual and Gender-Based Misconduct received by them, regardless of the context in which it is received. Student academic advisors are considered Responsible Employees only when receiving disclosures from or about students whom they advise.

Responsible Employees must, within twenty-four (24) to forty-eight (48) hours, disclose to the Director of Title IX Compliance incidents of Sexual and Gender-Based Misconduct that come to their attention. Responsible Employees must disclose: (1) the name of the individual who allegedly engaged in Sexual and Gender-Based Misconduct (if known); (2) the student who experienced the alleged Sexual and Gender-Based Misconduct; (3) other individuals involved; and (4) all relevant facts, including the date, time and location of the alleged incident. Responsible Employees and the Director of Title IX Compliance are trained to maintain the privacy of the information reported. Throughout the reporting and conduct process the information is shared with only College officials who need to know in order to carry out the process. Please see this [chart](#) for a list of key Responsible Employees.

It is important to note that while student employees (who are not residential advisors) are not Responsible Employees and therefore do not have an *obligation* to report, these students are also not Confidential Resource Persons and may *choose* to report.

**7. How do I know if someone is a Responsible Employee or a Confidential Resource Person?**

- A. The following chart (continued on the next page) is designed to assist members of the College community in understanding the different reporting obligations held by different community members. Any questions as to the reporting status of an individual should be submitted to the Director of Title IX Compliance at (508) 286-3231, [pauze\\_rachael@wheatoncollege.edu](mailto:pauze_rachael@wheatoncollege.edu), or at her office in the Science Center, Rm. 227.

<b>COMMUNITY MEMBER</b>	<b>STATUS</b>	<b>REPORTING OBLIGATIONS</b>
<i>The Counseling Center*</i> 42 Howard Street, Norton, MA (508) 286-3905	<i>Confidential Resource</i>	<i>None, unless they are being consulted outside of the scope of</i>

<p><i>*All clinicians and staff are designated as Confidential Resource Persons.</i></p>		<p><i>their role(s) within the Counseling Center.</i></p>
<p><b><i>New Hope, Inc.*</i></b>  <i>140 Park St, Attleboro, MA  (800) 323-4673 (in state callers);  (877) 785-2020 (out of state callers) ask to be connected to New Hope</i></p> <p><i>*All clinicians and staff are designated as Confidential Resource Persons.</i></p>	<p><i>Confidential Resource</i></p>	<p><i>None, unless they are being consulted outside the scope of their role within organization as victim advocates.</i></p>
<p><b><i>College Chaplain</i></b></p> <p><b><i>Bernard Hinckley</i></b>  <i>Chapel Basement Office  508-286-3370</i></p>	<p><i>Confidential Resource</i></p>	<p><i>None, unless he is being consulted outside of the scope of his role as Chaplain.</i></p>
<p><b><i>Title IX Director and Coordinators</i></b></p> <p><b><i>Rachael Pauze,</i></b>  <b><i>Director of Title IX Compliance</i></b>  <i>Science Center 227  508-286-3231;</i></p> <p><b><i>Brandon White,</i></b>  <b><i>Deputy Title IX Coordinator (students)</i></b>  <i>Assoc. Dean of Students  Park Hall 103  508-286-8218</i></p> <p><b><i>Kersti Yllo,</i></b>  <b><i>Deputy Title IX Coordinator (faculty)</i></b>  <i>Science Center 331  508-286-3654</i></p> <p><b><i>Omaira Roy,</i></b>  <b><i>Deputy Title IX Coordinator (staff)</i></b>  <i>Asst. Vice President/Director HR  Hebe 108  508-286-8206</i></p> <p><b><i>Lisa Yenush '90</i></b>  <b><i>Deputy Title IX Coordinator (athletics)</i></b>  <i>Assoc. Director of Athletics/SWA  Haas Athletic Center 224  508-286-3982</i></p>	<p><i>Non-Confidential &amp; Responsible Employee</i></p>	<p><i>The Director of Title IX Compliance and Deputy Directors of Title IX Compliance will share information with College personnel who need to know it in order to carry out College policies and procedures.</i></p>

<p><b><i>Sexual Misconduct and Assault Resource Team (SMART) Coordinator</i></b></p> <p><b><i>Courtney Ruggles</i></b>  <i>Science Center 231</i>  <i>508-286-3374</i></p>	<p><i>Non-Confidential &amp; Responsible Employee</i></p>	<p><i>The SMART Coordinator will share information with College personnel who need to know it in order to carry out College policies and procedures.</i></p>
<p><b><i>Public Safety</i></b>  <i>30 Taunton Avenue</i>  <i>508-286-8213 (non-emergency)</i>  <i>508-286-3333 (emergency)</i></p>	<p><i>Non-Confidential &amp; Responsible Employee</i></p>	<p><i>Public Safety will report to the Director of Title IX Compliance all information received about incidents that could implicate the Sexual and Gender-Based Misconduct Policy so that the College can investigate and respond. Public Safety may also include certain information in a crime log and annual crime statistics without identifying the alleged victim. If the incident is a crime and poses a serious or continuing threat, Public Safety will issue an emergency notification or Timely Warning.</i></p>
<p><b><i>Residential Advisors</i></b></p>	<p><i>Non-Confidential &amp; Responsible Employee</i></p>	<p><i>Residential Advisors will report all disclosures of Sexual and Gender-Based Misconduct received by them, regardless of who is making the disclosure and the context in which it is received. Residential Advisors will report information to the Title IX Director.</i></p>
<p><b><i>Academic Advisors</i></b></p>	<p><i>Non-Confidential &amp; Responsible Employee</i></p>	<p><i>Student academic advisors will report all disclosures of Sexual and Gender-Based Misconduct received from or about students whom they advise. Student academic advisors will report information to the Title IX Director.</i></p>

**8. Should I speak with the Director of Title IX Compliance and what is this person’s role?**

- A. The Director of Title IX Compliance is available to all members of the College community as a resource and also takes reports of Sexual and Gender-Based Misconduct.

The Director of Title IX Compliance is charged with administering the College's program to comply with Title IX. This includes leading the College's efforts to respond to reports of conduct that could implicate the Policy. The Director of Title IX Compliance is also available to meet with any individual to provide information about the application of the Policy (including the availability of interim measures, the investigation, and the resolution/sanction process), as well as discussing other resources within the College community and beyond. The Title IX Team, including the Director, Deputy Directors of Title IX Compliance ('Deputy Directors'), the Sexual Misconduct and Assault Resource Team (SMART), and/or other qualified members of the College community, will assist, as necessary, with these efforts.

**9. What happens if I experienced Sexual and Gender-Based Misconduct, but I do not want the College to pursue the conduct process (College investigation and disciplinary hearing)?**

- A. The College will respond to all reports of Sexual and Gender-Based Misconduct. However, the College recognizes that a Complaining Individual may desire confidentiality and may request that: (1) the Complaining Individual's name not be revealed to the party who is alleged to have violated the Policy; or (2) that the College not investigate or pursue resolution of the report.

In such cases, the College will respect the request for confidentiality wherever possible, weighing the request and the reasons for it against the College's obligation to address any risk of harm to the Complaining Individual or other individuals in the community and the nature of the incident or conduct at issue.

The College will inform the Complaining Individual: (1) that requests for confidentiality may limit the College's ability to respond fully to the incident, including pursuing any disciplinary action; and (2) that Title IX includes protections against retaliation and that College officials will take steps to prevent retaliation and also take strong responsive action if it occurs.

If in light of the above disclosures, a Complaining Individual continues to request that their name not be disclosed or that the College not investigate or pursue resolution of the report, the Director of Title IX Compliance, or a designee, will: (1) confirm in writing the request for confidentiality; and (2) determine whether or not the College can honor such request while still providing a safe and nondiscriminatory environment for the College community including the Complaining Individual.

In making the determination regarding whether or not the College can honor the request for privacy, the Director of Title IX Compliance will consider: (1) whether the alleged circumstances suggest that there is an increased risk of the alleged perpetrator committing additional acts of Sexual and Gender-Based Misconduct or other violence; (2) whether

the alleged Sexual and Gender-Based Misconduct was perpetrated with a weapon; (3) the age of the individual allegedly subjected to the Sexual and Gender-Based Misconduct; or (4) whether the College possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

If the College determines that it can honor the Complaining Individual's request for confidentiality, it will take steps to remedy the effects of the alleged Sexual and Gender-Based Misconduct which include offering support services and interim measures to the Complaining Individual. The Complaining Individual may, at any future time, request that the College pursue an investigation and conduct process.

If the College determines that it cannot honor the Complaining Individual's request for confidentiality, it will identify safety risks and interim measures necessary to protect the Complaining Individual, inform the Complaining Individual of its decision and the information that will be disclosed and to whom it will be disclosed.

**10. I did not experience Sexual and Gender-Based Misconduct, but I am aware of it occurring. Should I report the misconduct and, if so, how does the Policy apply to me?**

- A. Yes, you should report the Sexual and Gender-Based Misconduct. Aside from individuals designated as Confidential Resource Persons, the College strongly encourages *all* individuals who are aware of Sexual and Gender-Based Misconduct to report it to the Director of Title IX Compliance immediately. Reporting Sexual and Gender-Based Misconduct promotes the safety and well-being of the individual who was subjected to the misconduct and the College community as whole.

An individual who did not experience the Sexual and Gender-Based Misconduct but who reports it to the College is considered a "Reporting Individual." In these limited circumstances, the College will determine which of the protections provided to the Complaining Individual under the Policy are also applicable to the Reporting Party on a case-by-case basis. For example, a Reporting Individual may need interim measures for their own safety and well-being. The Reporting Individual is also protected under the Policy from Retaliation. Any Retaliation against a Reporting Individual is prohibited and such conduct should be reported to the Director of Title IX Compliance immediately.

**11. I've experienced Sexual and Gender-Based Misconduct. If I report it to the College, what can the College do for my safety?**

- A. The College will work to provide you with any necessary interim measures while it pursues an initial investigation. The College will work with you to determine what is needed for your safety and well-being. Simply speaking with the Director of Title IX Compliance is enough to report an incident. You need not put anything in writing. The

interim measures can consist of a number of options, including but not limited to interim Orders of No Contact, requests for academic adjustments or other accommodations, access to additional support services, changes to living, transportation and working situations, and other actions to address the situations and concerns raised on an interim basis.

**12. I've experienced Sexual and Gender-Based Misconduct. Should I report it to the police?**

- A. You have the right to report (or to decline to report) the matter to local law enforcement. A report to law enforcement will not change the College's obligation to take immediate and appropriate steps to respond to the report. It may briefly delay the timing of an investigation if a law enforcement agency requests that the College delay its process for a reasonable amount of time to allow it to gather evidence of criminal conduct. If you wish to report the matter to local law enforcement you may go to the Norton Police Department (82 East Main Street, Norton, MA 02766) in person and file a police report. Support persons at the College, including Public Safety officers, the SMART Coordinator, and certain others with whom you may feel comfortable are available to accompany you to report. Please also know that there are people at the College who can maintain the confidentiality of whatever information you share with them. Please refer back to Frequently Asked Question seven for a discussion of the different reporting responsibilities held by different people on campus. Please contact the Director of Title IX Compliance, Rachael Pauze ((508) 286-3231), with any questions about the options available to you. Note that Director Pauze is a Responsible Employee that must act on any conduct you describe to her, so please try to limit your questions to procedural questions and do not provide specific details about the incident to her if you wish to maintain confidentiality until you are ready to report.

## Conduct Process

**13. What is the conduct process under the Sexual and Gender-Based Misconduct Policy?**

- A. The conduct process under the Sexual and Gender-Based Misconduct Policy is the process by which the College formally resolves reports of Sexual and Gender-Based Misconduct. The conduct process includes a College investigation that is thorough, reliable, and impartial. At the conclusion of the investigation, College investigators complete an investigation report for the Sexual and Gender-Based Misconduct Hearing Board's ('the Board') review. The Board is charged with holding a hearing on the matter and making a determination of responsibility and imposing sanctions, where appropriate.

**14. I've experienced Sexual and Gender-Based Misconduct, and I want to initiate the conduct process. How do I initiate it?**

- A. You may initiate the formal conduct process by requesting such to the Director of Title IX Compliance either in person, by phone, by email, or otherwise in writing. As part of initiating the conduct process, you will be asked but **not required** to submit to the Director of Title IX Compliance a written complaint.

**15. After receiving a report of Sexual and Gender-Based Misconduct, how does the College begin the conduct process?**

- A. The College will send a Notice of Investigation letter, along with the written complaint (if one exists), to the Respondent. The Respondent is given five (5) business days to respond to the complaint. After an answer is received from the Respondent, College investigators review the information submitted and began an investigation which typically includes but is not limited to, interviews with the parties, interviews with witnesses, and collection of relevant evidence.

**16. What type of information do the investigators and the Board consider during an investigation and Hearing?**

- A. The College investigators are impartial fact finders and consider only information that is relevant to the reported Sexual and Gender-Based Misconduct. As such, only in limited situations should investigators consider information related to either party's character or sexual history outside of the conduct in question. For example, evidence of a pattern of conduct similar in nature by the Respondent may be considered in certain circumstances. Additionally, if it is relevant, the investigator(s) and/or the Board may consider: (1) information concerning the prior relationship of the parties; or (2) information indicating that a person other than the Respondent is responsible for the misconduct alleged. In no case will the sole fact of a current or previous consensual dating or sexual relationship between the parties imply consent to the reported conduct or preclude a finding of responsibility for a Policy violation. Investigators will consider any type of relevant evidence including but not limited to witness testimony, text messages, social media posts, and surveillance video, etc.

**17. What if no one witnessed the Sexual and Gender-Based Misconduct?**

- A. The College investigators are often able to gather additional evidence even when no one witnessed the misconduct. Witnesses may include individuals who were present before or after the misconduct occurred or who were later told about the misconduct. In addition to witness testimony, investigators will also consider other types of evidence including but not limited to, text messages, social media posts, surveillance video, etc. The College

investigators will work with each party to gather as many facts as possible in preparing their investigative report for the Sexual and Gender-Based Misconduct Board ('Board').

**18. What is the purpose of the Board hearing?**

- A. A three (3) member board hears the case after reviewing the investigative report and case file. The hearing provides the parties, witnesses, and investigators with a forum to speak before the Board members who are the decision makers in the matter. The hearing is a private forum, where only the Board, the Procedural Coordinator and parties called may be present. The Board typically calls on the investigators, the Complainant, the Respondent, and witnesses to answer questions. Witnesses are in the hearing only for the duration of the questions. Procedural Advisors/advisors-of-choice may be present with their respective party. The Complainant and the Respondent will not appear at the same time during the course of the hearing, and they may not directly question each other or witnesses. Both parties will be provided an opportunity to request that additional questions be directed by the Chair to other individuals appearing at the hearing. The Chair may use discretion in determining whether or not to ask such questions so long as the discretion is equitable for both parties.

**19. What are the rules of confidentiality applicable to the Board hearing?**

- A. All parties participating in a Board hearing (along with investigator interviews), including the Complainant, Respondent, and witnesses are expected to keep confidential any information learned during the hearing. This means you should not share it with your friends, your roommates, your team members, or even your professors. This includes but is not limited to the questions asked and statements made by the Board and/or the Procedural Coordinator. Parties who need support or who would like to discuss matters addressed during the Board hearing should contact the Director who will assist the party in understanding or processing information and who can refer the party to additional resources and support. Similarly, if you would like to share the information with someone else, the Director can discuss this with you and make sure that any communication protects both parties. Again, this is not designed to prevent individuals from receiving support, but on a small campus such as ours, we need to do our very best to protect the privacy of all individuals involved in this sensitive process.

**20. What is the standard of proof used by the Board to determine whether or not the Sexual and Gender-Based Misconduct occurred?**

- A. After the hearing, the Board deliberates in a closed session using the preponderance of the evidence standard to determine whether the Respondent is responsible or not responsible for violations of the Policy. The preponderance of the evidence standard means that in order to find that the Respondent is responsible, the facts would have to

support a finding that it is "more likely than not" that the misconduct occurred. This can also be thought of as more than a 50% likelihood or "50% plus a feather."

**21. What sanctions are available if the Board finds that a Respondent is responsible?**

- A. If the Board determines the Respondent is responsible for violation(s) of the Policy, the Board will determine the sanction(s) to be imposed. Sanctions may include but are not limited to the following: expulsion; suspension; probation; reprimand; warning; restitution; education/counseling; Order of No Contact; restriction from extracurricular programs, activities, or events; loss of leadership opportunity or positions in activities; housing restriction/relocation; and/or restriction from College employment.

It is important to note that Orders of No Contact are used by the College as temporary or interim measures after a report is made under this Policy and can also be utilized as a final sanction. Similarly, restrictions from programs, activities, events, leadership positions, College employment, or housing may also be used as a temporary or interim measure pending the final outcome of the process described under the Policy.

**22. What is the process for appealing the Board's determination?**

- A. Either party may appeal the Board's determination by submitting a letter to the Procedural Coordinator requesting an appeal. Such request must be made within five (5) business days of receiving notice of the Board's determination of responsibility and sanctions and must state one of two grounds for the appeal: (1) newly discovered material information that was not known to the appellant party and unavailable during the investigation and during the hearing and which likely would have changed the finding of responsibility or the sanction imposed had it been available; or (2) substantial procedural error that materially prejudiced the appellant party. Examples of substantial procedural errors include but are not limited to: the Investigator(s) and the Hearing Board failing to interview or call to testify a relevant witness; a Hearing Board member with a prejudicial bias serving at a hearing; an Investigator with a conflict of interest preventing them from being impartial.

The appellant party must set forth in detail the grounds for review and must attach all materials that the party wishes to have considered in the appeal process. The Procedural Coordinator will provide a copy of the appeal submitted by one party to the other party and the Appellant Office (the Dean of Students or a designee) will review the appeal.

**23. What is the timeframe for the conduct process under the Policy?**

- A. The College cannot promise a definitive timeframe for the conduct process, but ordinarily will complete its investigation and hearing board process within sixty (60) days of receiving a report of Sexual and Gender-Based Misconduct. This time period does not

include the time for any appeal. The U.S. Department of Education has made clear that the length of investigations may vary with the complexity and unique factors in each case. Examples of such factors include, without limitation, circumstances in which critical witnesses are unavailable or if law enforcement requests the College temporarily halt its investigation for a brief period of time. Accordingly, all timeframes set forth in the Policy may be altered by the Procedural Coordinator and/or Director of Title IX Compliance for good reason. The College's overarching goal is that all Sexual and Gender-Based Misconduct complaints be investigated in a prompt, fair, equitable, and impartial manner.

## Effective Consent and Prohibited Conduct

### **24. I am unsure about whether what I experienced constitutes sexual and gender-based misconduct. With whom could I speak?**

- A. There are many resources available to you to help sort through what occurred and whether it violates the Sexual and Gender-Based Misconduct Policy or another College policy. To discuss your experience confidentially, you may speak with someone at the Counseling Center ((508) 286-3905) or New Hope ((800) 323-4673 for in state callers and (877) 785-2020 for out of state callers). To discuss your experience with College staff who are not confidential but who are trained to assist you and treat what you tell them with discretion, you may contact the Director of Title IX Compliance, Rachael Pauze ((508) 286-3231) or the SMART Coordinator, Courtney Ruggles ((508) 286-3374). Please see frequently asked question #13 for more information about available resources.

### **25. What are the parameters of Effective Consent?**

- A. As defined in the policy, Effective Consent is consent which is informed, freely and actively given through clear words or actions and that creates mutually understandable permission regarding the conditions of sexual activity. Effective Consent is achieved only where each party mutually understands what their partner consents to and does not consent to with regard to physical and sexual interactions. Effective Consent at one time does not imply Effective Consent at any other time. When thinking about Effective Consent, it is important to be mindful of the following limits:
- Effective Consent cannot be obtained through silence alone (absent a non-verbal action clearly demonstrating consent). Effective Consent can be communicated verbally or by action(s). In whatever way consent is communicated, it must be mutually understandable.

- Effective Consent cannot be obtained from minors (under the age of 16 in Massachusetts), individuals with mental disabilities, or incapacitated persons. A person may be incapacitated as a result of alcohol or other drug use.
- Effective Consent cannot be obtained through physical force or threat of physical force, coercion, fraud, intimidation, or incapacitation. Physical force includes but is not limited to: hitting, kicking and restraining. Coercion is generally understood to mean the use of express or implied threats of violence or reprisal or other intimidating behavior that puts a person in immediate fear of the consequences in order to compel that person to act against his or her will. Intimidation is generally understood to mean forcing someone into some action or deterring a person from some action by inducing fear. Effective Consent cannot be obtained by threatening someone, whether by words, gestures, or non-verbal actions.

## 26. What type of behavior is considered Sexual Harassment?

- A. Sexual Harassment includes any unwelcome sexual advance, request for sexual favors, or other unwelcome conduct of a sexual nature, whether verbal, physical, graphic, or otherwise. Sexual harassment may occur between opposite sex or same sex individuals and is not limited by gender or gender identity. In general, Sexual Harassment can be divided into two types of conduct:

**Tangible Employment or Educational Action.** This type of Sexual Harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a University activity is conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcomed sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a University program or activity.

**Hostile Environment Harassment.** This type of Sexual Harassment exists when the conduct is sufficiently serious (i.e., severe, pervasive, or persistent) so as to deny or limit a person's ability to participate in or benefit from the University's programs, services, opportunities, or activities or when such conduct has the purpose or effect of unreasonably interfering with an individual's employment. In determining whether a hostile environment exists, consideration will be made as to whether a reasonable person in a similar situation would have also perceived the conduct as objectively offensive.

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, frequency, duration, and location of incident or incidents;
3. The identity, number, and relationships of persons involved;
4. The nature of higher education.

Examples of behavior that might be considered Sexual Harassment include but are not limited to:

- Unwelcome sexual innuendo, propositions, sexual attention or suggestive comments and gestures; inappropriate humor about sex or gender-specific traits; sexual slurs or derogatory language directed at another person's sexuality, gender identity, sexual orientation or gender expression; insults and threats based on sex, gender, gender identity, sexual orientation or gender expression; and other oral, written or electronic communications of a sexual nature that an individual communicates is unwanted and unwelcome.
- Written graffiti or the display or distribution of sexually explicit drawings, pictures, or written materials; sexually charged name-calling; or the circulation, display, or creation of e-mails, text messages, or web sites of a sexual nature.
- Display or circulation of written materials or pictures degrading to an individual or gender group where such display is not directly related to academic freedom, or an educational/pedagogical, artistic, or work purpose.
- Unwelcome physical contact or suggestive body language, such as touching, patting, pinching, hugging, kissing, or brushing against an individual's body.
- Physical coercion or pressure of an individual to engage in sexual activity or punishment for a refusal to respond or comply with sexual advances.
- Use of a position of power or authority to: (1) threaten or punish, either directly or by implication, for refusing to tolerate sexual harassment, for refusing to submit to sexual activity, or for reporting sexual harassment; or (2) promise rewards in return for sexual favors.
- Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping.

## **27. What type of behavior is considered Sexual Exploitation?**

A. Examples of behavior that might be considered Sexual Exploitation include but are not limited to:

- Media-based misconduct which includes but is not limited to photographing or taping someone (via audio, video or otherwise) involved in sexual activity, or in a state of undress, without their knowledge and consent. Even if a person consented to sexual activity, photographing or taping someone without their knowledge and consent goes beyond the boundaries of that consent.
- Dissemination of photographs or video/audio of someone involved in sexual activity or in a state of undress without their knowledge and consent.
- Voyeurism is a form of Sexual Exploitation where one individual engages in secretive observation of another or engages in non-consensual video or audio taping of a sexual act. Although the source for the secretive viewing or taping may be unaware of the observation, this behavior is a form of Sexual and Gender-Based Misconduct and violates the integrity of the individual who is unaware.

**28. What type of behavior is considered Relationship Violence?**

- A. Relationship Violence includes dating violence, domestic violence, and intimate partner violence and can encompass a broad range of behavior including but not limited to threats, assault, property damage, emotional abuse, violence or threat of violence to one's self, one's sexual or romantic partner or to the family members or friends of the sexual or romantic partner. Relationship Violence can occur with individuals of all genders, gender identities, gender expressions and sexual orientation and can occur across racial, cultural and socio-economic identities.

**29. What type of behavior is considered Sexual Violence?**

- A. Sexual Violence is any sexual act committed against someone without that person's Effective Consent. Examples of Sexual Violence include but are not limited to:
- Completed or attempted Non-Consensual Sexual Penetration, whether by force, incapacitation, intimidation or coercion.
  - Completed or attempted Non-Consensual Sexual Touching.
  - Non-contact unwanted sexual experiences such as unwanted exposure to pornography or verbal sexual harassment.

**30. What type of behavior is considered Retaliation?**

- A. As stated in the Policy, retaliation includes any acts or words that constitute intimidation, threats, or coercion person because of that person's: (1) report of Sexual and Gender-Based Misconduct; (2) assistance in reporting of Sexual and Gender-Based Misconduct; (3) participation in any proceeding under the Policy; or (4) protest of Sexual and Gender-Based Misconduct, and that would also deter a reasonable person from reporting or

assisting in reporting a violation of the policy, participating in any proceeding under the Policy, or protesting of Sexual and Gender-Based Misconduct. An adverse action does not include minor annoyances or another's lack of good manners as those actions will not deter a reasonable person from engaging in the process. Examples of retaliation include but are not limited to:

- exclusion of a Complaining Individual from social events because of the Complaining Individual's report of Sexual and Gender-Based Misconduct;
- harassment of any witnesses because of their cooperation in the conduct process;
- bullying, taunting, or intimidating a Complaining Individual because of the Complaining Individual's report of Sexual and Gender-Based Misconduct; and
- termination of College employment, denial of promotion or leadership position, or unjustified grading because of the Complaining Individual's report of Sexual and Gender-Based Misconduct.

The College does not tolerate retaliation in any form against any persons for their participation or involvement in the reporting, investigation, and/or resolution of matters subject to the Policy. The College includes retaliation as prohibited conduct under the Policy. Retaliation may constitute a violation of the Policy even when the underlying report made does not result in a finding of responsibility.