

# WHEATON COLLEGE TITLE IX POLICY

August 1, 2024

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## **I. Introduction**

Wheaton College is committed to fostering an environment that is free from all forms of discrimination on the basis of sex. Wheaton does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment. Wheaton complies with all state and federal antidiscrimination laws, including Title IX.

The Wheaton College Title IX Policy (the “Policy”) has been developed in compliance with Title IX of the Education Amendments of 1972 and accompanying regulations (“Title IX”) to provide: (1) a prompt, effective, and equitable investigation and adjudication process for complaints of conduct that may constitute discrimination on the basis of sex, which includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, and all forms of sex-based harassment (dating violence, domestic violence, hostile environment harassment, quid pro quo harassment, retaliation, sexual assault, and stalking), as defined by Title IX; and, (2) recourse for individuals whose rights have been violated.

Title IX states, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.” This Policy sets forth Wheaton’s approach to addressing discrimination on the basis of sex in any education program or activity that it operates. This Policy applies to all members of the Wheaton community, including students, faculty, staff, applicants for admission or employment, and others who participate or attempt to participate in Wheaton’s education programs or activities. Wheaton maintains other policies that prohibit misconduct and discrimination, including the College’s Community Standards for students and Human Resources policies for employees. To the extent that alleged misconduct does not meet the definitions or fall within the scope of sex discrimination covered by Title IX and this Policy, Wheaton may address such alleged misconduct under Wheaton’s other policies, as appropriate.

Caraline Somerville is Wheaton’s Title IX Coordinator (the “Title IX Coordinator”) and is responsible for coordinating Wheaton’s compliance with its obligations under Title IX. The Title IX office is located at 316/317 Knapton Hall. The Title IX Coordinator can be reached at [titleix@wheatoncollege.edu](mailto:titleix@wheatoncollege.edu), [somerville\\_caraline@wheatoncollege.edu](mailto:somerville_caraline@wheatoncollege.edu) or 508-286-3261. \*

**Caraline will be on leave for the Fall of 2024.**

**For the Fall of 2024**, Djuna Perkins will serve as the College’s Interim Title IX Coordinator. Djuna can be contacted via [titleix@wheatoncollege.edu](mailto:titleix@wheatoncollege.edu), 508-286-3261 or via the [Title IX Reporting Form](#).

The College has also designated the following Deputy Title IX Coordinators:

Deputy Title IX Coordinator for Students: Zachary Irish, Dean of Students and Associate Vice President for Student Affairs, 508-286-8218, [irish\\_zachary@wheatoncollege.edu](mailto:irish_zachary@wheatoncollege.edu)

Deputy Title IX Coordinator for Staff: Omaira Roy, Associate Vice President for Human Resources, 508-286-3544, [roy\\_omaira@wheatoncollege.edu](mailto:roy_omaira@wheatoncollege.edu)

Deputy Title IX Coordinator for Faculty: Francisco De Alba, Associate Provost for Academic Administration and Faculty Affairs, 508-286-3631, [dealba\\_francisco@wheatoncollege.edu](mailto:dealba_francisco@wheatoncollege.edu)

Deputy Title IX Coordinator for Athletics: Lisa Yenush, Senior Associate Director of Athletics/SWA, 508-286-3982, [yenush\\_lisa@wheatoncollege.edu](mailto:yenush_lisa@wheatoncollege.edu)

If you have a question, concern, or complaint, you should direct it to the Title IX Coordinator and/or one of the Deputy Title IX Coordinators. Inquiries about Title IX may also be referred to the U.S. Department of Education's Office for Civil Rights:

U.S. Department of Education  
5 Post Office Square  
8th Floor  
Boston, MA 02109-2921  
Telephone: 617-289-0111  
Facsimile: 617-289-0150  
[OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

## **II. Scope**

This Policy sets forth how Wheaton will respond when the College receives notice of conduct that reasonably may constitute sex discrimination occurring in or restricting access to an education program or activity of the College. For purposes of this Policy and as prescribed by Title IX, "education program or activity" includes locations, events, or circumstances over which the College exercised substantial control over both the Respondent and the context in which the sex discrimination occurred (for example, academic, extracurricular, research program or activity).

When Wheaton is notified of conduct that reasonably may constitute sex discrimination under Title IX, Wheaton will respond promptly and effectively to address any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects. In responding, Wheaton will treat the Complainant and Respondent equitably and there is a presumption that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of the grievance procedure followed with regard to the Formal Complaint.

### III. Definitions

**Advisor.** An individual (who may be, but is not required to be, an attorney) who is selected by a party or assigned to a party by the College to provide information and procedural advice regarding the Policy and the College's grievance process, and who may inspect and review evidence.

**Appellate Officer.** A trained and qualified individual other than the Title IX Coordinator, the investigator(s), or the decisionmakers(s) who is an employee of the College or engaged by the College to review and determine appeals under the Policy.

**Complainant.**

- a) A student or employee who is alleged to have been subjected to conduct that could constitute sexual discrimination under Title IX or its regulations; or
- b) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the College's education program or activity at the time of the alleged sex-based discrimination.

**Confidential Resource.** Staff, faculty, or third-party partners with a statutory privilege (e.g., 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 providers available to students for the purpose of providing information, support, and resources regarding the Policy.

**Consent.** Consent which is informed, freely and actively given through clear words or actions, and creates mutually understandable permission regarding the conditions of sexual activity. Consent is achieved only where each party mutually understands what behavior the party's partner consents to and what behavior the party's partner does not consent to with regard to physical and sexual interactions. Consent at one time does not imply Consent at any other time. Consent cannot be obtained: (1) through silence alone (absent a non-verbal action clearly demonstrating consent); (2) from minors under the age of 16, individuals with certain mental disabilities, or incapacitated persons; or (3) through physical force, threat of physical force (by words, gestures, or non-verbal actions), coercion, fraud, intimidation, or Incapacitation.

**Dating Violence.** Violence committed by a person: (1) who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and (2) where the existence of such a relationship will be determined based on a consideration of the following factors (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction

between the persons involved in the relationship. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.

**Deputy Title IX Coordinator.** A College official and member of a Designated Official’s Office who is specifically designated as a Title IX Deputy to support intake and the implementation of Supportive Measures for students, faculty, and staff.

**Designated Official.** A College official with authority to institute corrective measures on behalf of the College. Designated Officials include staff in the Dean of Students Office, the Office of the Provost, and Human Resources.

**Disciplinary sanctions.** Consequences imposed on a Respondent following a determination under Title IX that the Respondent violated the College’s prohibition on sex discrimination.

**Domestic Violence.** Actions of violence committed by a current or former spouse or intimate partner of the Complainant, 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, or by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Massachusetts. In interpreting the term “violence” in this definition, the College will consider, but is not limited to, the types of actions that constitute felonies or misdemeanors under Massachusetts state law.

**Formal Complaint.** An oral or written request to the College that objectively can be understood as a request for the College to investigate and make a determination about alleged sex discrimination under Title IX or its regulations.

**Hostile Environment Harassment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the College’s education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

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

**Incapacitation.** The inability, temporarily or permanently, to give consent, because: (1) an individual is mentally and/or physically helpless or unaware of where they are, how they got there, or why or how they became engaged in sexual activity due to drug or alcohol consumption, either voluntarily or involuntarily; or (2) an individual is unconscious, asleep or otherwise unaware that the sexual activity is occurring. Where alcohol is involved, Incapacitation is a state beyond drunkenness or intoxication. Some indicators of Incapacitation may include, but are not limited to, lack of control over physical movements, lack of awareness of circumstances or surroundings, or the inability to communicate for any reason.<sup>1</sup>

**Order of No Contact.** A written order issued by the Title IX Coordinator prohibiting contact between two or more parties and, when applicable, ordering restriction from one or more locations on campus.

**Parental status.** The status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is: (1) a biological parent; (2) an adoptive parent; (3) a foster parent; (4) a stepparent; (5) a legal custodian or guardian; (6) in loco parentis with respect to such a person; or (7) actively seeking legal custody, guardianship, visitation, or adoption of such a person.

**Pregnancy or related conditions.** (1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

**Procedural Coordinator.** The Deputy Title IX Coordinator for Students or designee

**Quid Pro Quo Harassment:** An employee, agent, or other person authorized by the College to provide an aid, benefit, or service under the College's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

**Reasonable Person.** A reasonable person under similar circumstances and with similar identities. This standard may be used in evaluating allegations of sex discrimination.

**Relevant.** Related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

**Remedies.** Measures provided, as appropriate, to a Complainant or any other person the College identifies as having had their equal access to the College's education program or activity limited

or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the College's education program or activity after a recipient determines that sex discrimination occurred.

**Respondent.** A person who is alleged to have violated the College's prohibition on sex discrimination.

**Retaliation.** Intimidation, threats, coercion, or discrimination against any person by the College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part, including in an informal resolution process, in grievance procedures set forth in Sections VII and VIII below, and in any other actions taken by the Title IX Coordinator and/or College in response to reports of sex discrimination.

**Sexual Assault.** Sexual Assault includes: (1) the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without consent; (2) the touching of the private body parts of another person for the purpose of sexual gratification, without consent, including instances where the Complainant is incapable of giving Consent because of their age or because of their temporary or permanent mental incapacity; (3) sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; and (4) sexual intercourse with a person who is under the statutory age of consent.

**Stalking.** Engaging in a course of conduct directed at a specific person that would cause a Reasonable Person to: (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress. For the purpose of this definition, course of conduct means two or more acts, including, but not limited to acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicated to or about a person, or interferes with a person's property. Substantial emotional distress means significant mental suffering or anguish that may, but does not require medical or other professional treatment or counseling.

**Supportive Measures.** Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter Prohibited Conduct. Supportive measures may include counseling, extensions of

deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

**Sex-based Harassment.** Sex-based harassment is a form of sex discrimination and includes the following prohibited conduct, as defined above:

- (1) **Dating Violence;**
- (2) **Domestic Violence;**
- (3) **Hostile Environment Harassment;**
- (4) **Quid Pro Quo Harassment;**
- (5) **Retaliation.<sup>2</sup>**
- (6) **Sexual Assault; and**
- (7) **Stalking**

**Timely Warning.** A warning issued by the Director of Campus Safety to the campus community to notify the community of a serious crime that constitutes an ongoing or continuing threat.

**Title IX.** Title IX of the Education Amendments of 1972 (20 U.S.C.A. § 1681) and its implementing regulations (34 C.F.R. Part 106).

**Title IX Coordinator.** The College's Title IX Coordinator or designee.

#### **IV. Parental, Family, or Marital Status; Pregnancy or Related Conditions**

Wheaton does not discriminate in its education programs or activities based on a student's current, potential, or past parental, family, or marital status. Wheaton does not discriminate in its education programs or activities against a student based on their current, potential, or past pregnancy or related conditions.

When a student informs any Wheaton employee of their pregnancy or related condition, that employee must promptly provide the student with the Title IX Coordinator's contact information and must inform the student that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the recipient's education program or activity.

The Title IX Coordinator or designee will inform the student of the College's obligations under Title IX with regard to the student's pregnancy or related conditions and will provide the student with the College's notice of nondiscrimination. If necessary to prevent sex discrimination and ensure equal access to the College's education program or activity, the Title IX Coordinator or designee will make reasonable modifications to the College's policies, practices, or procedures. Such reasonable modifications will be based on the student's individualized needs. The Title IX Coordinator or designee will consult with the student to determine what modifications, if any, are



necessary. The College is not required to make a modification that would fundamentally alter the nature of the College's education program or activity; such modification would not be a reasonable modification. The student has the choice to accept or decline each reasonable modification offered by the College. If the student accepts a reasonable modification, the College must implement it.

Reasonable modifications may include, but are not limited to: breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (for example, access to a larger desk or a footrest); elevator access; or other changes to policies, practices, or procedures.

The College will allow the student to voluntarily access any separate and comparable portion of the College's education program or activity and such separate portion will be comparable to that offered to students who are not pregnant and do not have related conditions.

The College will allow the student to voluntarily take a leave of absence from the College's education program or activity for, at a minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. To the extent the student qualifies for a leave that allows a greater period of time than the medically necessary period, the College will permit the student to take voluntary leave under that policy instead if the student so chooses. Upon return from leave, the student will be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.

The College will provide the student with access to a lactation space, which is a space other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed.

The College will not require supporting documentation unless such documentation is necessary and reasonable for the College to determine the reasonable modifications to make or whether to take additional specific actions to prevent sex discrimination and ensure equal access to the College's education program or activity.

## **V. Making a Report**

To report conduct that reasonably may constitute sex discrimination, which includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, and all forms of sex-based harassment, as defined by Title IX, please:

- Complete the Title IX Reporting Form, [linked here electronically](#) and also available on the Wheaton College website and on InsideWheaton.

- Contact the Title IX Coordinator directly at [titleix@wheatoncollege.edu](mailto:titleix@wheatoncollege.edu) or [somerville\\_caraline@wheatoncollege.edu](mailto:somerville_caraline@wheatoncollege.edu), 508-286-3261, or in person during business hours at the Title IX Office located at 316/317 Knapton Hall.
- Contact any Deputy Title IX Coordinator.

***For emergency response or after-hours assistance:*** Campus Safety is available 24/7 and can be reached by calling 508-286-3333.

To receive confidential guidance and support, please consider using one of the following on or off-campus Confidential Resource options available to the Wheaton community:

- On-campus confidential resources:
  - Wheaton Counseling Center, 508-286-3905, open during business hours [M-F 8:30am – 4:30pm, closed 12:30-1:30pm for lunch]
  - Wheaton College’s Confidential Resource Provider, Wheaton Counseling Center, 508-286-3905
- Off-campus confidential resources:
  - New Hope, local rape and domestic violence center based in Attleboro, 24 hour hotline: in-state calls contact 800-323-4673; out-of-state calls contact SafeLink at 877-785-2020 and ask to be transferred to New Hope’s Hotline
  - Sturdy Memorial Hospital in Attleboro: [508-222-5200](tel:508-222-5200)
  - Morton Hospital in Taunton: [508-828-7100](tel:508-828-7100)

All employees, other than on-campus Confidential Resources, must notify the Title IX Coordinator when they have information about conduct that reasonably may constitute sex discrimination under Title IX. Employees should contact the Title IX Coordinator at [titleix@wheatoncollege.edu](mailto:titleix@wheatoncollege.edu), [somerville\\_caraline@wheatoncollege.edu](mailto:somerville_caraline@wheatoncollege.edu), 508-286-3261, or at the Title IX Office located at 316/317 Knapton Hall.

Student-employees must notify the Title IX Coordinator, only when, in the course of their employment, they learn of conduct that reasonably may constitute sex discrimination under Title IX. Student-employees should contact the Title IX Coordinator, at [titleix@wheatoncollege.edu](mailto:titleix@wheatoncollege.edu), [somerville\\_caraline@wheatoncollege.edu](mailto:somerville_caraline@wheatoncollege.edu), 508-286-3261 or at the Title IX Office located at 316/317 Knapton Hall.

When a College’s on-campus Confidential Resource receives information about conduct that may reasonably constitute sex discrimination, the Confidential Resource must explain to the reporter:

- The Confidential Resource’s confidential status;

- How to contact the Title IX Coordinator, and how to make a report of sex discrimination; and
- That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the College’s grievance procedures.

Employees, including student-employees, are not required to make a report to the Title IX Coordinator, if they have personally been subject to conduct that reasonably may constitute sex discrimination.

It is a priority of the College that all persons have equitable access to reporting, resources and all aspects of the grievance process. Historically excluded identities often experience increased barriers to reporting. The College has a number of identity-focused support offices for students including the Office of Equity and Belonging, the Marshall Center for Intercultural Learning, the Center for Social Justice and Community Impact, and Accessibility Services. As mentioned above, Confidential Resources are also available to provide confidential support. Additionally, any students seeking accommodations in the response to a report of sex discrimination, including the formal grievance process, may contact Accessibility Services at [accessibility@wheatoncollege.edu](mailto:accessibility@wheatoncollege.edu).

## **VI. Response to Reports of Sex Discrimination**

Wheaton will respond to reports alleging discrimination on the basis of sex, which includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, and all forms of sex-based harassment (dating and domestic violence, hostile environment harassment, quid pro quo harassment, retaliation, sexual assault, and stalking), as defined by Title IX, promptly and effectively and will treat the Complainant and Respondent equitably in doing so. A Respondent will be presumed not responsible for the alleged sex discrimination until a determination is made at the conclusion of the grievance procedure followed.

- (1) **The College will respond to all reports of alleged sex discrimination in a prompt, equitable, and effective manner.** After receiving notice of alleged sex discrimination, the Title IX Coordinator or designee will take a number of initial steps. These initial steps are not an investigation. Rather, these initial steps will enable the College to assess the need to take any immediate action to address the safety and health needs of the parties and the College community and to determine the next steps for investigating the reported conduct, and the need for any Supportive Measures. These initial steps include, but are not limited to, the following:

- (a) Supportive Measures. The Title IX Coordinator or designee will promptly contact the Complainant to discuss the availability of Supportive Measures, consider the

Complainant's wishes with respect to Supportive Measures, and inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint. As defined in Section III above, the College will provide Supportive Measures but will remain cognizant of the burden a specific Supportive Measure may have on the other party and will not provide supportive measures that unreasonably burden a Complainant or Respondent. Factors to be considered in determining reasonable supportive measures may include: the specific need expressed by the party; the severity and/or pervasiveness of the allegations; any continuing effects on the party; whether the parties share the same residence hall, dining hall, class, extracurricular activities, transportation and/or job location; and whether other judicial measures have been taken to protect a party or the parties. Within 3 days of a decision regarding a supportive measure (including a decision not to institute a particular supportive measure), the parties may seek a modification or reversal of the College's decision to provide, deny, modify, or terminate supportive measures applicable to them. Such requests will be heard and decided by an appropriate and impartial employee. Parties may at any time request that the Title IX Coordinator review, modify, and/or terminate Supportive Measures applicable to them if circumstances change materially.

- (b) Disclosures Regarding Law Enforcement. The Title IX Coordinator or designee will notify the Complainant about the right to report (or decline to report) the matter to Campus Safety and/or to law enforcement, to receive assistance from campus authorities in contacting law enforcement, and to request a court-issued protective order.<sup>3</sup> A report to law enforcement will not change the College's duty to respond to the matter but it may briefly delay the timing of any 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 potential criminal conduct. If the College learns that a form of Sex-based Harassment occurred with regard to an individual under the age of eighteen (18), the College may be required to report the information to the Massachusetts Department of Children and Families, as well as to law enforcement.
- (c) Policy on Retaliation. The Title IX Coordinator or designee will inform the Complainant about the College's prohibition of Retaliation and that the College will respond to any reports of retaliation promptly.
- (d) Threat Assessment. The Title IX Coordinator, in consultation with other College administrators, will assess the reported conduct to determine whether the circumstances pose a threat to the health or safety of the College

community and warrant the issuance of a Timely Warning, an Order of No Contact for any persons, or any other interim protections including the facilitation of an emergency removal from campus. in accordance with Section IX(7) of the Policy.

(2) **Making a Formal Complaint.** The Title IX Coordinator or designee will explain to the Complainant the process for making a Formal Complaint.

(a) If, at this time, the Complainant chooses not to make a Formal Complaint, the Title IX Coordinator or designee, in accordance with Section IX(6) of the Policy, will weigh that request and the reasons for it against the College's obligation to address any risk of harm to the Complainant or other individuals in the community and the nature of the incident or conduct at issue.

(b) In certain circumstances, the Title IX Coordinator or designee may determine that it would be unreasonable in light of the known circumstances not to investigate the allegations of sex-based harassment. In those circumstances, the Title IX Coordinator or designee will make a Formal Complaint. Where the Title IX Coordinator or designee signs a Formal Complaint, the Title IX Coordinator or designee is not a Complainant or otherwise a party to the matter.

(3) **Dismissal and Consolidation of Formal Complaints.** As outlined below, the College may dismiss Formal Complaints upon their filing or during the course of the grievance process in the following situations:

(a) If the conduct alleged in a Formal Complaint would not constitute sex discrimination even if proved, then the College may dismiss the Formal Complaint with regard to that conduct under this procedure. The Title IX Coordinator or designee will, if appropriate, refer the reported conduct to the appropriate administrator for handling consistent with any other pertinent College policy. If new information is subsequently provided, the decision whether or not to proceed under this procedure will be reevaluated.

(b) The College may dismiss a Formal Complaint or any allegations therein, if at any time during the investigation or hearing: a Complainant notifies the Title IX Coordinator or designee in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; the Respondent is no longer enrolled at the College; or specific circumstances prevent the College from

gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

- (c) Upon a dismissal permitted pursuant this section, the College will promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.
- (d) Consolidation of Formal Complaints. The College may consolidate Formal Complaints as to allegations of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sex discrimination arise out of the same facts or circumstances.

#### **(4) Informal Resolution Process**

The College has discretion to offer the informal resolution process to address a report or formal complaint of Sex Discrimination. The Title IX Coordinator, in their sole discretion, will determine whether the informal resolution process is appropriate and may decline to offer informal resolution despite one or more of the parties' wishes.

The informal resolution process is completely voluntary. If interested, parties will consent to the informal resolution process in writing. Prior to the state of the informal resolution process, the Title IX Coordinator or designee will give the parties notice that explains:

- The allegations;
- The requirements of the informal resolution process;
- That, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the grievance procedure;
- That the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- That the parties' statements made during the informal resolution process are confidential and cannot be used if grievance procedures are initiated or resumed.

The College will appoint a facilitator (internal or external) who will manage the informal resolution procedure. Whoever is appointed will not serve as an investigator or decisionmaker in a grievance procedure arising from the same allegations if attempts at informal resolution are unsuccessful and a grievance process is initiated. The facilitator will not have a conflict of

interest or bias for or against complaints or respondents generally or an individual Complainant or Respondent.

**VII. Grievance Procedure for Formal Complaints of Alleged Sex Discrimination (*not including complaints of sex-based harassment involving a student*)**

The College will respond to Formal Complaints of discrimination on the basis of sex, which includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, and all forms of Sex-based Harassment (as defined by Title IX) not involving a student, according to the following grievance procedure:

(1) **Investigation.** If a Formal Complaint is filed, the formal investigation phase will commence and include the steps outlined below.

(a) Notice of Investigation. The Title IX Coordinator or designee will provide the parties with a copy of the Formal Complaint, the Policy, and written notice of the investigation which will include:

- (i.) notice of the allegations potentially constituting Prohibited Conduct and sufficient details known at the time, including: (1) the identities of the parties involved in the incident, if known; (2) the conduct allegedly constituting Prohibited Conduct as defined in the Policy; and (3) the date and location of the alleged incident, if known;
- (ii.) a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- (iii.) a statement informing the parties that they may have an Advisor;
- (iv.) notice of Section IX(2) of the Policy which prohibits knowingly making false statements or knowingly submitting false information during the grievance process;
- (v.) the availability of Supportive Measures; and
- (vi.) a reminder of the Policy's prohibition of Retaliation.

(b) Designation of Investigator(s). When appointing the investigator(s), the College will designate at least one internal or external investigator to conduct a prompt, fair,

equitable and impartial investigation of the reported conduct and prepare an investigative report.<sup>4</sup> At the College's discretion, more than one investigator may be assigned. Further, the Title IX Coordinator or designee may serve as Investigator. The Coordinator or designee will provide the parties with the name of the investigator(s). As soon as possible, but no later than three (3) days after receiving notice of the identity of the investigator(s), the parties can inform the Title IX Coordinator or designee in writing of any conflicts or potential conflicts of interest with regard to the selected investigator(s). The Title IX Coordinator or designee will consider the nature of the conflict and determine if a different individual should be assigned as investigator(s). The Coordinator's or designee's decision regarding any conflicts is final.

- (c) Nature of the Investigation. Investigative meetings may be conducted in person or virtually. The following are the roles and processes to be followed during the investigation.
- (i.) The investigation provides an opportunity for fact-finding and will include separate interviews with the Complainant, Respondent, and any relevant witnesses.<sup>5</sup>
  - (ii.) The investigator(s) will provide the parties with advance notice of meetings at which their presence is required. Parties will be afforded an equal opportunity to present witnesses and other inculpatory and exculpatory evidence.
  - (iii.) Each party may have a single Advisor present during any meeting, interview, or hearing, held pursuant to the Policy. The Advisor may advise their respective party privately, but cannot act as a speaking advocate at a meeting. College staff and internal or external investigators may delay or terminate meetings, remove or dismiss Advisors, and/or proceed with the investigation if an Advisor is disruptive or otherwise refuses to comply with the requirements of this policy. An Advisor is subject to the same privacy expectations applicable to others in attendance and must also abide by any applicable state and federal laws. Accommodations, including scheduling of interviews or reviews, generally will not be made for any advisors if they unduly delay the process. The Advisor is not permitted to attend a meeting or proceeding without the party they are advising being present without the prior approval of the Title IX Coordinator or designee, at their discretion. The College reserves the right to take appropriate action regarding any Advisor who disrupts the process, or who does not abide by the restrictions on their participation.



- (iv.) At no point will the investigation require both parties to be in the same room. At no point will either party be permitted to question or cross-examine the other party or any witness directly during the investigation or appeal process. The Investigator(s) will provide each party with an opportunity to present questions which the Investigator(s), in their sole discretion, may ask of any other party or witness.
- (d) Content of Investigative Report. The investigator(s) will create an investigative report that:
- (i.) fairly summarizes relevant evidence and relevant consistencies or inconsistencies (if any) between all sources of information;
  - (ii.) includes the investigator(s)' assessment of the credibility of parties and witnesses;
  - (iii.) contains as attachments any relevant evidence gathered, whether inculpatory (i.e., suggesting the party did commit the conduct alleged) or exculpatory (i.e., suggesting that a party did not commit the conduct alleged);
  - (iv.) outlines the Investigator(s) findings of fact and conclusions regarding the application of the Policy to the facts; and
  - (v.) provides a determination of responsibility using the preponderance of the evidence standard.
- (e) Sanctions. If the Investigator(s) determines that the Respondent is responsible for violation(s) of the Policy, the Investigator or designee will issue disciplinary sanctions the College imposes on the Respondent and any remedies provided by the College to the Complainant and other persons the College identifies as having had equal access to the education program or activity limited or denied by sex discrimination (disciplinary sanctions and remedies include dismissal, suspension, probation with or without conditions, reprimand, warning, restitution, education, counseling, Orders of No Contact, restriction from extracurricular programs or activities, loss of leadership opportunities or positions in activities, housing restrictions and / or relocation; and restrictions from College employment). Pertinent records of previous disciplinary action may be used in determining an appropriate sanction.

(f) Notice. The College will provide written notice of the determination along with access to the Investigative Report simultaneously to the parties not later than seven (7) business day after a determination is made.<sup>6</sup> The determination will contain the College's procedures and permissible bases for the Complainant and Respondent to appeal.

(2) **Appeals.** Either party may appeal a determination regarding responsibility.

(a) Filing an Appeal. Within ten (10) days of receiving written notice of the Investigator's determination on responsibility and sanctions, either the Complainant or the Respondent may appeal the decision by submitting to the Title IX Coordinator or designee a letter stating why the party requesting the appeal believes the determination of responsibility and/or the sanctions were inappropriate.

(b) Bases for Appeals. Appeals must be based on one or more of the following:

(i.) procedural irregularity that affected the outcome of the matter;

(ii.) new evidence that was not reasonably available at the time the determination regarding responsibility or sanction was made, that could affect the outcome of the matter; and

(iii.) the Coordinator, or investigator(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

(c) Notice of Appeal and Opportunity to Respond. The College will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. The Complainant and Respondent will be provided with a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome

(d) Appellate Officer. The Appellate Officer will decide the merits of any appeal and in so doing, may consult with the Title IX Coordinator or designee, the investigator(s), and any other individual that the Appellate Officer deems appropriate.

(e) Appeal Determinations. The purpose of the appeal is not to rehear the case; rather, it is to determine if there is sufficient information presented to allow a reconsideration of the Investigator's determination. The Appellate Officer may affirm all or part of the decision (which includes the determination of responsibility, as well as the sanction) or may refer the matter to the investigator(s) for further consideration. The

Appellate Officer will provide specific instructions with any referral. In the event of a referral, the Appellate Officer may mandate such further proceedings as the Appellate Officer deems appropriate under the circumstances, consistent with the Policy. When reaching an appeal determination, the Appellate Officer will issue a written decision describing the result of the appeal and the rationale for the result and provide the written decision simultaneously to both parties.

### ***VIII. Grievance Procedure for Formal Complaints of Alleged Sex-based Harassment Involving a Student (as a Complainant or a Respondent)***

This section outlines how the College will respond to a report of alleged Sex-based Harassment involving a student. As defined above, Sex-based Harassment includes:

- (1) **Dating Violence;**
- (2) **Domestic Violence;**
- (3) **Hostile Environment Harassment;**
- (4) **Quid Pro Quo Harassment;**
- (5) **Retaliation.**<sup>7</sup>
- (6) **Sexual Assault; and**
- (7) **Stalking;**

**The College will respond to formal complaints of Sex-based Harassment involving a student according to the following grievance procedure:**

- (1) **Investigation.** If a Formal Complaint is made alleging Sex-based Harassment involving a student, the formal investigation phase will commence and include the steps outlined below.
  - (a) **Notice of Investigation.** The Title IX Coordinator or designee, will provide the parties with a copy of the Formal Complaint, the Policy, and written notice of the investigation which will include:
    - (i) notice of the allegations potentially constituting Sex-based Harassment and sufficient details known at the time, including: (1) the identities of the parties involved in the incident, if known; (2) the conduct allegedly constituting Sex-based Harassment as defined in the Policy; and (3) the date and location of the alleged incident, if known;
    - (ii) a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
    - (iii) a statement informing the parties that they may have an Advisor;

- (iv) notice of Section IX(2) of the Policy which prohibits knowingly making false statements or knowingly submitting false information during the grievance process;
- (v) If, in the course of an investigation, the College decides to investigate additional allegations of Sex-based Harassment by the Respondent toward the Complainant that are not included in the written notice of investigation;
- (vi) the availability of Supportive Measures; and
- (vii) a reminder of the Policy's prohibition of Retaliation.

To the extent the College has reasonable concerns for the safety of any person as a result of providing this notice, the College may reasonably delay providing written notice of the allegations in order to address the safety concern appropriately.

(b) Designation of Investigator(s). When appointing the investigator(s), the College will designate at least one internal or external investigator to conduct a prompt, fair, equitable and impartial investigation of the reported conduct and prepare an investigative report.<sup>8</sup> At the College's discretion, more than one investigator may be assigned. The Title IX Coordinator or designee will provide the parties with the name of the investigator(s). As soon as possible, but no later than three (3) days after receiving notice of the identity of the investigator(s), the parties can inform the Title IX Coordinator or designee in writing of any conflicts or potential conflicts of interest with regard to the selected investigator(s). The Title IX Coordinator or designee will consider the nature of the conflict and determine if a different individual should be assigned as investigator(s). The Title IX Coordinator's or designee's decision regarding any conflicts is final.

(c) Nature of the Investigation. Investigative meetings may be conducted in person or virtually. The following are the roles and processes to be followed during the investigation.

- (i) The investigation provides an opportunity for fact-finding and will include separate interviews with the Complainant, Respondent, and any relevant witnesses.<sup>9</sup>
- (ii) The investigator(s) will provide the parties with advance notice of meetings at which their presence is required. Parties will be afforded an equal opportunity to present witnesses and other inculpatory and exculpatory evidence.

- (iii) Each party may have a single Advisor present during any meeting, interview, or hearing, held pursuant to this procedure. The Advisor may advise their respective party privately, but cannot act as a speaking advocate at a meeting. College staff and internal or external investigators may delay or terminate meetings, remove or dismiss Advisors, and/or proceed with the investigation if an Advisor is disruptive or otherwise refuses to comply with the requirements of this policy. An Advisor is subject to the same privacy expectations applicable to others in attendance and must also abide by any applicable state and federal laws. Accommodations, including scheduling of interviews or reviews, generally will not be made for any advisors if they unduly delay the process. The Advisor is not permitted to attend a meeting or proceeding without the party they are advising being present without the prior approval of the Title IX Coordinator or designee, at their discretion. The College reserves the right to take appropriate action regarding any Advisor who disrupts the process, or who does not abide by the restrictions on their participation.
- (iv) At no point will the investigation require both parties to be in the same room. At no point will either party be permitted to question or cross-examine the other party or any witness directly during the investigation, determination, or appeal process. The parties may propose to the decisionmaker questions to be asked of the other party and/or witnesses at the hearing but all such questions must be determined relevant by and asked by the decisionmaker.
- (d) Content of Investigative Report. The investigator(s) will create an investigative report that: fairly summarizes relevant evidence; includes a separate section where the investigator(s) point out relevant consistencies or inconsistencies (if any) between all sources of information; and attaches any relevant evidence gathered, whether inculpatory (i.e., suggesting that a party is responsible for the conduct alleged) or exculpatory (i.e., suggesting that a party did not commit the conduct alleged). The investigative report will not include a determination as to whether a party has violated the Policy or what sanctions may be appropriate. These determinations will be made as described in Section VIII(2)(d) below.
- (e) Review of the Investigative Report by the Parties. Both parties will be informed of their opportunity to review the entire investigative report and that they may submit written comments and/or questions about the content of the investigative report to the investigator(s) within seven (7) business days of the date they are notified that the investigative report is available for review. The time to submit written

comments can be extended for a brief period if the Title IX Coordinator or designee concludes, in their sole discretion, that the additional time is warranted. In circumstances where an extension is provided to one party, it will be provided to the other party, as well.

- (i) The comments submitted by the parties may not exceed five (5) double spaced pages unless a higher page limit is otherwise determined, in the sole discretion of the Title IX Coordinator or designee, to be necessary and appropriate. After reviewing the submissions, if any, from the parties, the investigator(s) may determine that either additional investigation is required or no further investigation is needed. Any written comments submitted by the parties will be attached to the investigative report; the investigator(s) has the sole discretion to determine if any information or questions submitted are irrelevant and therefore not to be considered and will be redacted. If further investigation is conducted, the investigator(s) will include any additional relevant information in the investigative report.
- (ii) The investigative report will then be finalized. Any submissions made by either party pursuant to this section, as well as any other documentation deemed relevant by the investigator(s), will be attached to the investigative report.

(2) **Live Hearing.** At the conclusion of the investigation phase, the hearing process will commence and include the steps outlined below.

- (a) Designation of a Decisionmaker(s). The College will designate at least one internal or external decisionmaker to conduct a prompt, fair, equitable, and impartial hearing.<sup>10</sup> The Procedural Coordinator will provide the parties with the name of the decisionmaker(s). As soon as possible, but no later than three (3) days after receiving notice of the identity of the decisionmaker(s), the parties can inform the Procedural Coordinator in writing of any conflicts or potential conflicts of interest with regard to the selected decisionmaker(s). The Procedural Coordinator will consider the nature of the conflict and determine if a different individual should be assigned as decisionmaker(s). The Procedural Coordinator's decision regarding any conflicts is final.
- (b) Notice of Hearing. The Procedural Coordinator will notify the Complainant and the Respondent in writing of the time and date of the hearing at least ten (10) business days prior to the hearing date.

- (c) Nature of the Hearing. Hearings will be conducted virtually. The following are the roles and processes to be followed during the hearing.
- (i) Decisionmaker(s) will maintain broad authority to determine the process, timing and conduct of the hearing. For example, the decisionmaker(s) will determine the order of presentation, timing, and overall duration of the hearing, what information and evidence will be heard, what information and questions are relevant to the determination of the matter, and what cross-examination questions will or will not be permitted.
  - (ii) Each party may have an Advisor present at the hearing who will be subject to the same expectations and limitations pertaining to the investigation phase as outlined under Section VIII(1)(c)(iii).
  - (iii) At a time and manner deemed appropriate by the decisionmaker(s), and after the initial session of questions posed by the decisionmaker(s), each party will have the opportunity to propose follow-up questions to the decisionmaker that they request to be asked of the other party, any witness, or the investigators before the conclusion of the hearing. The decisionmaker(s) will determine what questions are relevant and will seek to clarify any unclear or confusing questions. The decisionmaker(s) will then ask the relevant follow-up questions.
  - (iv) Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are 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.
  - (v) Information protected under a legally recognized privilege (*e.g.*, privileged communications between a party and their physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a treatment capacity, or privileged communications between a party and their attorney), are not permitted unless the person holding the privilege has waived the privilege.
  - (vi) If a party or witness does not participate at the live hearing, the decisionmaker(s) may still rely on any statement of that party or witness in reaching a determination regarding responsibility.

- (vii) The College will create an audio or audiovisual recording of the hearing in order to create a written transcript. Upon request, the written transcript of the hearing will be available to the parties for inspection and review.
  
- (d) Determination Regarding Responsibility. The decisionmaker(s) will complete a written determination regarding responsibility using the preponderance of the evidence standard (i.e., more likely than not). The College will provide the written determination simultaneously to the parties not later than seven (7) business days after a determination is made.<sup>11</sup> The written determination will include:
  - (i) identification of the allegations potentially constituting sex-based harassment;
  - (ii) a description of the procedural steps taken from the College of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
  - (iii) findings of fact supporting the determination;
  - (iv) conclusions regarding the application of the Policy to the facts;
  - (v) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;

If applicable following any determination(s) of Responsibility made by the decisionmaker(s), the College will supplement the decisionmaker(s) written determination to include 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, to the extent appropriate, other students identified by the College to be experiencing the effects of the sex-based harassment (disciplinary sanctions and remedies include dismissal, suspension, probation with or without conditions, reprimand, warning, restitution, education, counseling, Orders of No Contact, restriction from extracurricular programs or activities, loss of leadership opportunities or positions in activities, housing restrictions and / or relocation; and restrictions from College employment). Any disciplinary sanctions and/or remedies imposed by the College are effective immediately upon communication to the



parties; and

- (vi) the College's procedures and permissible bases for the Complainant and Respondent to appeal.

(3) **Appeals.** Either party may appeal a determination regarding responsibility or the College's dismissal of a Formal Complaint or any allegations therein.

- (a) **Filing an Appeal.** Within ten (10) business days of receiving written notice of the decisionmaker's determination on responsibility and sanctions (or dismissal of a Formal Complaint or any allegations therein), either the Complainant or the Respondent may appeal the decision by submitting to the Procedural Coordinator a letter stating why the party requesting the appeal believes the determination of responsibility and/or the sanctions were inappropriate.
- (b) **Bases for Appeals.** Appeals must be based on one or more of the following:
  - (i) procedural irregularity that affected the outcome of the matter;
  - (ii) new evidence that was not reasonably available at the time the determination regarding responsibility or sanction was made, that could affect the outcome of the matter; and
  - (iii) the Title IX Coordinator, investigator(s), or decisionmaker(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.
- (c) **Notice of Appeal and Opportunity to Respond.** The College will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. The Complainant and Respondent will be provided with a reasonable, equal opportunity to submit a written statement in support of, or challenging, the decision that is being appealed.
- (d) **Request for Stay of Sanction.** The College, in its sole discretion, may stay the imposition of any or all disciplinary sanctions.
- (e) **Appellate Officer.** The Appellate Officer will decide the merits of any appeal and in so doing, may consult with the Title IX Coordinator or designee, the investigator(s), the Decisionmaker(s), and any other individual that the Appellate

Officer deems appropriate.

- (f) **Appeal Determinations.** The purpose of the appeal is not to rehear the case; rather, it is to evaluate whether there are any bases for appeal, as defined above. The Appellate Officer may affirm all or part of the decision (which includes the sanction, as well as the determination of responsibility) or may refer the matter to the investigator(s) or decisionmaker(s) for further consideration. The Appellate Officer will provide specific instructions with any referral. In the event of a referral, the Appellate Officer may mandate such further proceedings as the Appellate Officer deems appropriate under the circumstances, consistent with the Policy. When reaching an appeal determination, the Appellate Officer will issue a written decision describing the result of the appeal and the rationale for the result and provide the written decision simultaneously to both parties.

## **IX. ADDITIONAL MATTERS**

- (1) **Request for Delay of Proceedings.** If the Complainant, the Respondent, or law enforcement agencies request that the College conduct proceeding be delayed because the conduct in question is also being addressed in a civil or criminal court, the College will review the request, but it retains the right to hear the case before, after, or during the same time as the civil or criminal case, and to implement appropriate action (including but not limited to Orders of No Contact, removal from campus, residence facilities, and/or classes, interim removals, or suspensions) to maintain the safety of the campus. The campus conduct process shall be confidential to the extent possible and as allowed by law and considerations of safety.
- (2) **Duty of Honesty and Cooperation.** All parties and witnesses are obligated to be completely honest during the course of the entire process set forth in the Policy. Any person who knowingly makes a false statement or knowingly submits false information – either explicitly or by omission – in connection with any part of the grievance process may be subject to separate College disciplinary action. All parties and witnesses are obligated to cooperate with the Title IX Coordinator and any persons charged with implementing the Policy. Any person who knowingly interferes with the actions taken to implement the reporting, investigation, or resolution of matters under the Policy may be subject to separate College disciplinary action.
- (3) **Patterns of Conduct.** Where there is evidence of pattern of conduct similar in nature by the Respondent, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of responsibility, this information may be deemed relevant and probative to the investigators’ report and/or the decision-maker’s determination of responsibility or sanction. In those instances, the Title IX Coordinator and the Procedural Coordinator will determine whether the previous incident was substantially similar to the conduct cited in the report and/or indicates a pattern of

behavior and substantial conformity with that pattern by the Respondent. The Title IX Coordinator or designee and the Procedural Coordinator may choose to provide this information to the investigator(s), with appropriate notice to the parties.

- (4) **Amnesty for Students Reporting Misconduct.** The College encourages reporting under the Policy and seeks to remove barriers to reporting. The College generally will not hold a student who reports conduct or is a witness during an investigation under the Policy accountable for disciplinary violations of the College's Community Standards related to the incident. However, a person who reports conduct under the Policy may be held accountable for his or her own misconduct if, in the College's discretion, it is determined that the behavior placed the health and safety of any person at risk, or if it created a danger to the College community. The College retains the right to require students to attend counseling or drug/alcohol related courses, as applicable, even in circumstances in which disciplinary conduct will not be pursued under the Policy.
- (5) **Privacy.** The College values the privacy of individuals involved in the reporting, investigation, and/or resolution of matters subject to the Policy and will not disclose the identity of Complainants and Respondents except as necessary to carry out the grievance process, its obligations under Title IX, and as otherwise permitted under state or federal law. The College takes reasonable steps to protect the privacy of parties and witnesses. Such steps will not restrict the ability of the parties to: obtain and present evidence, including by speaking to witnesses
- (6) **Requests for Privacy.** There are situations in which it may be necessary for the College to override a request for privacy in order to meet its Title IX obligation. In the event circumstances result in the College overriding a request for privacy or confidentiality to meet its Title IX obligation, the College will do so with the utmost sensitivity and respect for the circumstances and the individuals involved.

The factors the College will consider in determining whether it can grant a request for privacy include circumstances that suggest there is an increased risk of the alleged perpetrator committing additional acts of sexual violence or other violence (e.g., whether there have been other sexual violence complaints about the same alleged perpetrator, whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence, whether the alleged perpetrator threatened further sexual violence or other violence against the Complainant or others, and whether the sexual violence was committed by multiple perpetrators), circumstances that suggest there is an increased risk of future acts of sexual violence under similar circumstances (e.g., whether the Complainant's report reveals a pattern of perpetration, whether the sexual violence was perpetrated with a weapon, the age of the Complainant subjected to the sexual violence, and whether the school possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical

evidence).

- (7) **Emergency Removal or Administrative Leave.** The College may remove a Respondent from the College's education program or activity on an emergency basis (including placing an employee on administrative leave), provided that the College undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any person exists based on the allegation(s) of sex discrimination, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.
- (8) **Special Situations.** In limited circumstances, when the safety of the College community is at risk, if the material facts are undisputed, if there are extenuating circumstances involving either of the parties, or if the Title IX Coordinator, in consultation with appropriate administrators, determines it is in the best interest of the College and/or the community, the College retains the right to determine, in its sole discretion, if it will address a report of conduct that falls under the Policy with any modifications to the process described in the Policy. Whenever the College determines that it will exercise this provision, its actions will be in accord with Title IX and it will stay true to the processes described in the Policy to the extent possible. The College will also clearly explain to the parties any alternate processes it will take in the given situation and provide fair notice of those changes.
- (9) **Recordkeeping.** Records related to reports of sex discrimination including formal grievance procedures will be kept for seven (7) years. Confidential communications that occur as a part of the informal resolution process will also be maintained in a parties individual education record for the sole purpose of release upon request to that individual, but will otherwise remain confidential per the stipulations of informal resolution procedures and be impermissible for release to any party other than the author of the confidential material.

## **X. Training**

All Wheaton employees will receive training regarding their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX, and annually thereafter. All Wheaton employees must be trained on: (1) Wheaton's obligation to address sex discrimination in its education programs or activities; (2) the scope of conduct that constitutes sex discrimination under Title IX, including the definition of Sex-based Harassment; and (3) all applicable notification and information requirements required under Title IX.

Investigators (internal or external), decisionmakers (internal or external), and other persons who are responsible for implementing Wheaton's grievance procedures or who have the authority to modify or terminate supportive measures will also receive training on: (1) how Wheaton responds to sex discrimination in its education program or activity; (2) Wheaton's grievance

procedures set forth above in Sections VII and VIII; (3) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and, (4) the meaning and application of the term “relevant” in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under Wheaton’s grievance procedures set forth below in Sections VII and VIII.

Facilitators (internal or external) of Wheaton’s informal resolution process will also receive training on: (1) the rules and practices of Wheaton’s informal resolution process; and, (2) how to serve impartially, including by avoiding conflicts of interest and bias for or against complainants or respondents generally or an individual Complainant or Respondent.

Training materials for Title IX Personnel are available upon request.

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<sup>1</sup> The relevant standard that will be applied is whether the Respondent knew, or a sober reasonable person in the same position should have known, that the other party was incapacitated and therefore could not consent to the sexual activity.

<sup>2</sup> Retaliation allegations may be consolidated with other Formal Complaints if the facts and circumstances significantly overlap. If the facts and circumstances do not significantly overlap, then the College retains discretion to adjudicate the allegation of retaliation under a different but appropriate policy. For example, if a Respondent retaliates against a Complainant with regard to the filing of a complaint, that behavior could be consolidated with the Formal Complaint, provided appropriate notice is afforded. On the other hand, if the retaliatory conduct is committed by a Respondent’s friend/friend group who are not otherwise subject to a grievance under the Policy, that behavior could be adjudicated under another conduct policy which prohibits such behavior.

<sup>3</sup> Any person seeking to notify the College of a court-issued protective order should contact Campus Safety at 508-286-3333.

<sup>4</sup> All persons designated as investigators will receive no less than one annual training on issues relating to sex discrimination, investigatory procedures, and hearing procedures.

<sup>5</sup> The Investigator(s) will ask questions and consider evidence in a manner consistent with Section VIII(2)(c)(iv).

<sup>6</sup> The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

<sup>7</sup> Retaliation allegations may be consolidated with other Formal Complaints if the facts and circumstances significantly overlap. If the facts and circumstances do not significantly overlap, then the College retains discretion to adjudicate the allegation of retaliation under a different but appropriate policy. For example, if a Respondent retaliates against a Complainant with regard to the filing of a complaint, that behavior could be consolidated with the Formal Complaint, provided appropriate notice is afforded. On the other hand, if the retaliatory conduct is committed by a Respondent’s friend/friend group who are not otherwise subject to a grievance under the Policy, that behavior could be adjudicated under another conduct policy which prohibits such behavior.

<sup>8</sup> All persons designated as investigators will receive no less than one annual training on issues relating to sex discrimination, investigatory procedures, and hearing procedures.

<sup>9</sup> The Investigator(s) will ask questions and consider evidence in a manner consistent with Section VIII(2)(c)(iv).

<sup>10</sup> All persons designated as decisionmakers will receive no less than one annual training on issues relating to sexual misconduct, investigatory procedures, and hearing procedures.

<sup>11</sup> The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.