

# Sexual and Interpersonal Misconduct Policy



**LANDMARK**  
COLLEGE



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## Notice of Nondiscrimination on the Basis of Sex

Landmark College (the College) 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 and its regulations, including in admission and employment.

Inquiries about Title IX may be referred to the College's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both. The College's Title IX Coordinator is the Vice President for Student Affairs, Michael Luciani, 19 River Rd South, Putney, Vermont 05346, (802) 387-6713, [mluciani@landmark.edu](mailto:mluciani@landmark.edu). The contact information for the Department of Education's Office for Civil Rights in Boston is Office for Civil Rights, US Department of Education, 9th Floor, 5 Post Office Square, Boston, MA 02109-3921, 617-289-0111

The College's nondiscrimination policy and grievance procedures can be located on the College's [Community Standards | Landmark College](https://www.landmark.edu/student-life/our-community/community-standards) website page (<https://www.landmark.edu/student-life/our-community/community-standards>) and within this policy.

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to the procedures within this policy.

## Policy Statement

Title IX of the Educational Amendments of 1972 (Title IX) prohibits any person in the United States, on the basis of sex, from being excluded from participation in, denied the benefits of, or subjected to discrimination under any education program or activity receiving Federal financial assistance.

On April 29, 2024, the U.S. Department of Education issued a Final Rule under Title IX that is reflected in the following policies and procedures. The full text of the Title IX Final Rule and its extensive Preamble (34 CFR Part 106 ) is available here:

<https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>.

This policy and the procedures outlined below apply exclusively to reported conduct that falls within the scope of the policy on or after August 1, 2024, and supersedes any other previously-published College policies on issues related to sex discrimination and sex-based harassment (sexual harassment, sexual assault, domestic violence, dating violence, or stalking).

Further, to the extent that this policy and its procedures provide for the handling of allegations that fall within the definition of Title IX Sex Discrimination, such allegations will be handled exclusively as provided in this policy and its procedures, rather than any policies or handbook procedures that would otherwise apply to college students, faculty or staff.

In Sex Discrimination and Sex-Based Harassment cases defined below that involve allegations that a student engaged in Prohibited Conduct, the policy language and procedures for both categories of cases outlined below will apply.

In Sex Discrimination and Sex-Based Harassment cases as defined below that involve allegations that a College employee engaged in Title IX Sex Discrimination, the policy language and procedures for Title IX Sex Discrimination cases outlined below will apply, in accordance with applicable law.

Allegations that a College employee engaged in discrimination or harassment that do not fall within this policy will be addressed through other employment-related policies, practices, handbooks and/or collective bargaining agreements, but will not be addressed through the policy language or procedures outlined in this policy.

To understand how to file a complaint of Prohibited Conduct at Landmark College, please see the sections below on Complaint Procedures.

## Application of this Policy

This policy applies to Landmark College and to all sex discrimination occurring under the College's education program or activity in the United States.

Conduct that occurs under the College's education program or activity includes, but is not limited to:

- The physical campus in Putney, Vermont;
- The Landmark College Success Center in San Mateo, CA;
- Those engaging in coursework/the College Community online;
- Conduct that occurs in a building owned or controlled by a student organization that is officially recognized by a postsecondary institution; and
- Conduct that is subject to the College's disciplinary authority. The Landmark College Code of Conduct for students reserves the right to impose disciplinary sanctions, up to and including expulsion, for violations of College policies or for the commission of illegal acts on or off campus or for any action it deems to be detrimental to the student's performance, or which would be harmful to the welfare of the College, which would disrupt the academic process of the College.

The College has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside of the College's education program or activity or outside the United States.

## Effective Date

The effective date of this Policy is August 1, 2024, and will only apply to sex discrimination and/or sex-based harassment that allegedly occurred on or after August 1, 2024. Sex discrimination and/or sex-based harassment that allegedly occurred complainant prior to August 1, 2024, will be addressed under the appropriate Title IX policy or non-discrimination policy effective at the time of the alleged conduct that can be found on the College's [Community Standards | Landmark College](https://www.landmark.edu/student-life/our-community/community-standards) website page (<https://www.landmark.edu/student-life/our-community/community-standards>). This delineation of applicable policies and procedures will apply regardless of when the alleged incident is reported.

## Disability Accommodations

This policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator, Center for Academic Excellence (CAE) for student matters, or Human Resources (for employee matters) at any point before or during the Process that do not fundamentally alter

the Process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other College programs and activities.

### Revocation by Operation of Law

Should any portion of the Title IX Final Rule (April 29, 2024), be stayed or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified not to require the elements of this policy, then this policy, or the invalidated elements of this policy, will be deemed revoked as of the publication date of the applicable court order and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by the effective date of such court order. Should the policy be revoked in this manner, any conduct covered under the policy shall be investigated and adjudicated under Landmark College’s existing Codes of Conduct and/or its comparable policy adopted effective August 14, 2020, as appropriate.

### Use of External Professionals

The College reserves the right to contract outside experienced professionals, as necessary, to serve in any role necessary to implement the Policy and Process, including but not limited to investigators, decision makers, hearing board members or chairs, appellate decision makers, advisors, informal resolution facilitators, or support persons.

## Title IX Coordinator

The Vice President for Student Affairs is the designated Title IX Coordinator for the College and is responsible for coordinating the College’s efforts to comply with its responsibilities under Title IX, including responding to reports of sex discrimination, monitoring for barriers to reporting, and overseeing training requirements.

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

Michael Luciani, Vice President for Student Affairs  
Landmark College  
19 River Rd South  
Putney, Vermont 05346  
(802) 387-6713 [mluciani@landmark.edu](mailto:mluciani@landmark.edu)

The Title IX Coordinator is available to meet with students and employees as needed.

As appropriate, the College may delegate or permit the Title IX Coordinator to delegate specific duties to one or more designees. References throughout this policy to the Title IX Coordinator should be read as also including designees of the Title IX Coordinator.

## General Definitions

The definitions of sexual assault, domestic violence, dating violence and stalking used in this policy are consistent with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), as amended effective 2014 and the April 29, 2024 Title IX regulations.

In its primary prevention and awareness programs for incoming students and new employees, and its ongoing prevention and awareness programs for students and employees, Landmark

College includes the definitions of sexual assault, the definition of consent in reference to sexual activity, and the definitions of domestic violence, dating violence and stalking that are used by Vermont criminal laws.

However, the College utilizes its own definitions of these prohibited behaviors for purposes of this policy that are consistent with the Clery Act, as amended effective 2014 and the April 29, 2024 Title IX regulations, and determines responsibility for violations of College policy through its own procedures and standards of proof (that is, by a preponderance of the evidence standard), not through the procedures or standards of proof employed in the criminal justice system.

**Complainant:** For the purposes of this policy, “complainant” means (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or (2) 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 discrimination.

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

**Party** - A complainant or respondent.

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

**Confidential employee:** Either (1) an employee of the College whose communications are privileged or confidential under Federal or State law. The employee’s confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or (2) An employee of the College whom the College has designated as confidential for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee’s confidential status is only with respect to information received about sex discrimination in connection with providing those services; or (3) An employee of a postsecondary institution who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee’s confidential status is only with respect to information received while conducting the study.

## Consent

For purposes of the College’s Sexual and Interpersonal Misconduct Policy, and in Vermont law, consent is defined as follows:

“Consent” means the affirmative, unambiguous, and voluntary agreement to engage in a sexual act, which can be revoked at any time. No person subject to this policy shall engage in a sexual act with another person:

- without the consent of the other person; or
- by threatening or coercing the other person; or
- by placing the other person in fear that any person will suffer imminent bodily injury; or



- when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring.

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

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

“Incapable of consenting” as used in this policy means the other person:

- is incapable of understanding the nature of the conduct at issue;
- is physically incapable of resisting, declining participation in, or communicating unwillingness to engage in the conduct at issue; or
- lacks the mental ability to make or communicate a decision about whether to engage in the conduct at issue.

A person may be incapable of consenting due to the effects of alcohol, drugs or other intoxicants, or due to a physical, mental or other condition.

Lack of consent may be shown without proof of resistance, and submission resulting from the use of force, threat of force, or placing another person in fear does not constitute consent. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent to engage in sexual activity with one person does not imply to consent to engage in sexual activity with another. Again, consent can be withdrawn at any time.

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

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

**Incapacitation:** Incapacitation is a state beyond drunkenness or intoxication. Incapacitation is a state of intoxication or impairment that is so severe that it interferes with an individual’s capacity to make informed and knowing decisions. Incapacitation means that a person lacks the ability to voluntarily consent to sexual activity because the person is asleep, unconscious, under the influence of a substance such that the person does not have control over their body, is otherwise unaware that sexual activity is occurring, or is unable to appreciate the nature and quality of the activity. In evaluating whether a party obtained consent for sexual activity in cases involving incapacitation, the College will consider the totality of the circumstances to determine: (1) did the respondent know the complainant was incapacitated; or, if not, (2) would a sober, reasonable person in a similar set of circumstances as the respondent have known that complainant was incapacitated?

**Pregnancy or related conditions** – Defined in this policy as (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.

**Relevant** – Determined to be related to the allegations of sex discrimination under investigation as part of these grievance procedures. 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 the College determines that sex discrimination occurred.

**Reporting Party** - A student or employee who reports having experienced an incident of sexual misconduct to the College.

**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 the Title IX regulations. Peer retaliation prohibited by this policy means retaliation by a student against another student.

**Sex Discrimination** - Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

**Sex-Based Harassment** is a form of sex discrimination (see above) and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity that is: (1) Quid pro quo harassment; (2) Hostile environment harassment; (3) Sexual assault; (4) Domestic violence; (5) Dating violence; or (6) Stalking, as defined further below.

**Students** - All persons who have gained admission to the College, both full-time and part-time. Persons who are not officially enrolled for a particular term but who have a continuing relationship with the College are considered students.

**Supportive measures** - Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to: (1) Restore or preserve that party’s access to the College’s education program or activity, including measures that are designed to protect the safety of the parties or the College’s educational environment; or Provide support during the College’s grievance procedures or during an informal resolution process. See more details about supportive measures later in this

policy. Supportive measures are available before or after the making of a complaint or where no complaint has been made.

## Pregnancy and Related Conditions

Based on the 2024 Final Rule, The College must not discriminate in its education program or activity against any student based on the student's current, potential, or past pregnancy or related conditions. The College does not engage in prohibited discrimination when it allows a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of its education program or activity, provided the College ensures that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions.

Pregnancy or related conditions are defined in this policy as:

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.

## Responsibilities to Students

When any employee learns of a student's pregnancy or related condition **from a student or other person who has a legal right to act on behalf of the student**, the employee must:

4. Provide the student or other person with the contact information of the Title IX Coordinator; and
5. Inform the student or other person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access.

After receiving notice, the Title IX Coordinator must take specific actions under Title IX and its regulations to promptly and effectively prevent sex discrimination and ensure equal access to the recipient's education program or activity once the student, or a person who has a legal right to act on behalf of the student, notifies the Title IX Coordinator of the student's pregnancy or related conditions. These actions include:

### *Responsibility to provide information about the College's obligations.*

The College must inform the student, and if applicable, the person who notified the Title IX Coordinator of the student's pregnancy or related conditions and has a legal right to act on behalf of the student, of the College's Notice of Nondiscrimination and obligations under Title IX (see below).

### *Reasonable modifications*

The College must provide reasonable modifications to the College's policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access to the College's education program or activity. Each reasonable modification must be based on the student's individualized needs. In determining what modifications are required under this paragraph, the College must consult with the student. A modification that the College can demonstrate would fundamentally alter the nature of its education program or activity is not a reasonable modification. The student has the discretion to accept or decline each reasonable

modification offered by the College. If a student accepts the College's offered reasonable modifications, the College must implement them. Reasonable modifications may include, but are not limited to:

1. 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;
2. Intermittent absences to attend medical appointments;
3. Access to online or homebound education;
4. Changes in schedule or course sequence;
5. Extensions of time for coursework and rescheduling of tests and examinations;
6. Allowing a student to sit or stand, or carry or keep water nearby;
7. Counseling;
8. Changes in physical space or supplies (for example, access to a larger desk or a footrest);
9. Elevator access;
10. Or other changes to policies, practices, or procedures.

#### ***Voluntary access to separate and comparable portions of the program or activity.***

The College must allow the student to voluntarily access any separate and comparable portion of the College's education program or activity.

#### ***Voluntary leaves of absence***

The College must allow the student to voluntarily take a leave of absence from the College's education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider.

To the extent that a student qualifies for leave under a leave policy maintained by the College that allows a greater period of time than the medically necessary period, the recipient must permit the student to take voluntary leave under that policy instead if the student so chooses.

- When the student returns to the College's education program or activity, the student must be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.

#### ***Lactation space***

The College must ensure that the student can access a lactation space, which must be 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. Lactation spaces must be accessible to students and employees (they can be in separate locations).

#### ***Limitation on supporting documentation***

The College must not require supporting documentation to support the modifications above unless the documentation is necessary and reasonable for the College to determine the reasonable modifications to make or whether to take additional specific actions. Examples of

situations when requiring supporting documentation is not necessary and reasonable include, but are not limited to;

- when the student’s need for a specific action is obvious, such as, for example, when a student who is pregnant and who uses a uniform needs a bigger uniform;
- when the student has previously provided the College with sufficient supporting documentation;
- when the reasonable modification because of pregnancy or related conditions at issue is allowing a student to carry or keep water nearby and drink, use a bigger desk, sit or stand, or take breaks to eat, drink, or use the restroom;
- when the student has lactation needs; or
- when the specific actions above are available to students for reasons other than pregnancy or related conditions without submitting supporting documentation.

### ***Comparable treatment to other temporary medical conditions***

The College must treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy the College administers, operates, offers, or participates in with respect to students admitted to the College’s education program or activity.

### ***Certification to participate***

The College must not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the recipient’s class, program, or extracurricular activity unless:

- The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
- The recipient requires such certification of all students participating in the class, program, or extracurricular activity; and
- The information obtained is not used as a basis for discrimination prohibited by this part.

## **Responsibilities to Employees**

In addition to the 2024 Final Rule for Title IX, the federal government has released regulations under the *Pregnant Workers Fairness Act (PWFA)* and the *Providing Urgent Material Protections (PUMP) Act*. These regulations provide similar rights to employees. The requirements under these regulations for employees are combined below:

The College must not adopt or implement any policy, practice, or procedure or take any employment action on the basis of sex:

Concerning the current, potential, or past parental, family, or marital status of an employee or applicant for employment, which treats persons differently; or

That is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee’s or applicant’s family unit.

### ***Pregnancy or related conditions***

The College must not discriminate against any employee or applicant for employment on the basis of current, potential, or past pregnancy or related conditions.

### ***Comparable treatment to other temporary medical conditions***

The College must treat pregnancy or related conditions as any other temporary medical conditions for all job-related purposes, including: (1) commencement, duration and extensions of leave; (2) payment of disability income; (3) accrual of seniority and any other benefit or service; and (4) reinstatement; and (5) under any fringe benefit offered to employees by virtue of employment.

### ***Voluntary leaves of absence***

In the case of a recipient that does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, The College must treat pregnancy or related conditions as a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

### ***Lactation time and space***

The College must (1) provide reasonable break time for an employee to express breast milk or breastfeed as needed for up to one year after the child's birth; and (2) ensure that an employee can access a lactation space, which must be a space other than a bathroom that is clean, shielded from view, free from intrusion from others, and may be used by an employee for expressing breast milk or breastfeeding as needed. Lactation spaces must be accessible to students and employees (they can be in separate locations).

Documentation cannot be required in the provision of these modifications.

### ***Pregnant Worker's Fairness Act***

The College must accommodate qualified applicants or employees with known limitations (pregnancy, childbirth, or related medical conditions e.g. breastfeeding, miscarriage, abortion, and (in)fertility treatments). Reasonable accommodations include suspending essential job function(s) if: (1) they are temporary; (2) essential job function(s) can be performed in the near future; (3) inability to perform the essential functions can be reasonably accommodated. Reasonable accommodations are not required if it would cause an undue hardship to the College.

The employer is not required to obtain medical documentation, but documentation can be requested when reasonable under the circumstances. Documentation requirements must be the minimum sufficient to confirm the limitation and needed modification.

The College cannot ask for supporting documentation when the limitation is obvious or when the request is for the following accommodation(s): (1) carrying water and drinking, as needed; (2) taking additional restroom breaks; (3) sitting or standing (4) breaks, as needed, to eat and drink. Instead, the employee's self-confirmation of their need for the reasonable accommodation(s) is sufficient.

## Prohibited Conduct Under this Policy

Conduct that is the subject of this Policy (Sex Discrimination and Sex-Based Harassment) is prohibited. Prohibited conduct includes any conduct that satisfies one or more of the following:

### Sex Discrimination

Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

### Sex-Based Harassment

Sex-based harassment is a form of sex discrimination and means, with one exception,<sup>1</sup> sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, and includes:

- **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;
- **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:

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<sup>1</sup> The exception is that, under applicable provisions of Vermont law, a different standard for prohibited hostile environment harassment applies in the specific context of an employee complainant who is working in a Landmark College program or activity in Vermont. Under this standard: to "harass" means to engage in unwelcome conduct based on an employee complainant's protected characteristic(s) that interferes with the employee's work or creates a work environment that is intimidating, hostile or offensive. In determining whether conduct constitutes harassment: (A) The determination will be made on the basis of the information gathered in an investigation as a whole, according to the totality of the circumstances, and a single incident may constitute unlawful harassment; (B) Incidents that may be harassment will be considered in the aggregate with varying types of conduct and conduct based on multiple characteristics viewed in totality rather than in isolation; (C) Conduct may constitute harassment, regardless of whether: (i) the complaining employee is the individual being harassed; (ii) the complaining employee acquiesced or otherwise submitted to or participated in the conduct; (iii) the conduct is also experienced by others outside the protected class involved in the conduct; (iv) the complaining employee was able to continue carrying out the employee's job duties and responsibilities despite the conduct; (v) the conduct resulted in a physical or psychological injury; or (vi) the conduct occurred outside the workplace. Harassment need not be severe or pervasive to constitute prohibited harassment under this standard, but behavior that a reasonable employee with the same protected characteristic(s) would consider to be a petty slight or trivial inconvenience will not constitute harassment in violation of this Policy.

- 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
- **Sexual assault** - meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, which includes:
    - The carnal knowledge of a person (i.e., penile-vaginal penetration), without the consent of that person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;
    - Oral or anal sexual intercourse with another person, without the consent of that person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;
    - To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of that person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;
    - Fondling, that is, the touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity; for purposes of this definition, “private body parts” means breasts, buttocks, groin and genitals, including over clothing;
    - Incest, that is, nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law in the jurisdiction where the conduct occurred; and
    - Statutory Rape, that is, nonforcible sexual intercourse with a person who is under the statutory age of consent in the jurisdiction where the conduct occurred.
  - **Dating violence** – violence committed by a person: (A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) The parties’ statements; (2) The length of the relationship; (3) The type of relationship; and (4) The frequency of interaction between the persons involved in the relationship;
  - **Domestic violence** - felony or misdemeanor crimes committed by a person who: (A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction where the conduct occurred, or a person



similarly situated to a spouse of the victim; (B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) Shares a child in common with the victim; or (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction where the conduct occurred.

- **Stalking** - engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) Fear for the person's safety or the safety of others; or (B) Suffer substantial emotional distress.

For the purposes of this definition:

Course of conduct means two or more acts, including, but not limited to, acts in which the respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

- **Non-Sex-Based Stalking**, meaning stalking as defined immediately above that is directed at a specific person, but not on the basis of sex.
- **Sexual Exploitation** occurs when a person takes sexual advantage of another person for the benefit of anyone other than that other person without that other person's consent, and attempted sexual exploitation. Examples of sexually exploitative behavior include, but are not limited to:
  - video recording or photographing of sexual acts or nudity of another member of the College community without the consent of a person involved;
  - transmitting such video recordings or photographs without the consent of the person involved;
  - viewing or allowing or aiding others to view another person's sexual activity, intimate body parts, or nudity without the person's consent; and
  - sexual exhibitionism or exposure of one's genitalia in the presence of others without their consent.
- **Retaliation** means intimidation, threats, coercion, or discrimination against any person by the College or any individual, for the purpose of interfering with any right or privilege secured by this policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and/or the voluntary informal resolution processes described in this Policy; provided, however, that if the College decides to require an employee or other person authorized to provide aid, benefit, or service under the College's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding or hearing under this policy, that will not constitute retaliation. Retaliation also includes retaliation by a respondent or respondents against a peer (i.e., student-student or employee-employee retaliation). Retaliation is strictly prohibited. Complaints of retaliation will be addressed through the procedures provided below.

## Coordination with Other Policies

Where alleged conduct by a student respondent that is reported in connection with a reported violation of this policy also involves potential violations of the College's Student Code of Conduct that would not constitute sex discrimination or sex-based harassment covered by this policy, the College may, at its discretion, choose to investigate and resolve such other potential Student Code of Conduct violations through an investigation under the procedures set forth in this policy, rather than the procedures set forth in the Student Code of Conduct.

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

## Amnesty

The College's primary goals when responding to complaints of Prohibited Conduct such as sex discrimination and sex-based harassment matters involving students is to promote safety, and to address Prohibited Conduct and prevent it from recurring.

The College encourages the reporting of potential violations of the Title IX Policy.

Sometimes, parties or witnesses are hesitant to report to College officials or participate in the process because they fear that they themselves may be in violation of certain policies (e.g., underage drinking or use of illicit drugs at the time of the incident).

To encourage reporting and full participation in the process, the College maintains a policy of offering students amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident that is the subject of the report or matter being investigated. A student who reports Prohibited Conduct or participates in a process under this policy, either as a complainant, respondent, or a third-party witness, will not be subject to disciplinary action by the College for ancillary violations of College policy (not including this Policy) at or near the time of the incident) provided that any such violations did not place the health or safety of another person at risk. The College may, however, initiate an educational discussion or pursue other educational remedies with the student regarding alcohol or other drugs. This policy will not be construed to limit counter-complaints made in good faith or to prohibit action as to a report made in good faith.

Questions about the amnesty policy and its application can be directed to the Title IX Coordinator.

## Obligation to Provide Truthful Information

All individuals are expected to provide truthful information when participating in any aspect of this policy or the related process.

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a policy violation.

Additionally, witnesses and parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process can be subject to discipline under appropriate College policies.

## Training

The Title IX Coordinator (and designees), investigators, decisionmakers, and other persons who are responsible for implementing the recipient's grievance procedures or have the authority to modify or terminate supportive measures, and facilitators of the informal resolution process receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX and annually thereafter.

All employees are trained promptly upon hiring and annually thereafter on (1) The College's obligation to address sex discrimination in its education program or activity, (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.

## Confidentiality

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

The Title IX regulations contemplate that certain information will generally be treated confidentially, except as qualified by statements in those regulations. For example, the regulations provide that colleges and universities must maintain as confidential any supportive measures provided to a complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the supportive measures. The regulations also provide that institutions must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of the Title IX regulations, including the conduct of any investigation, hearing, or judicial proceeding arising under those regulations.

The College will protect the confidentiality of complainants and other necessary parties to the extent practicable. When the College completes publicly available recordkeeping, including disclosure of information as required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"), it will not include personally identifying information about parties. The Title IX Coordinator or designee will work with the Director of the Department of Public Safety or designee to determine what information about a complainant should be disclosed and to whom this information will be disclosed. Decisions about disclosure will be made by considering factors such as, but not limited to, the privacy interests of the complainant and the potential need for disclosure in order to effectuate the accommodations or protective measures. If it is decided that some disclosure is necessary, complainants will be informed of which information will be shared, with whom it will be shared and why.

## Professional Counselors and Health Services Professionals as Confidential Resources

At Landmark College, the professional counselors and health services staff respect and protect confidential communications with clients to the extent that they are able to do so under applicable law. This means that in most cases, these confidential resources will not inform anyone of such communications without a client's consent, and the College will not endeavor to take any action in response to such communications. These professionals may have the responsibility to disclose otherwise-privileged information appropriately when they perceive an immediate and/or serious threat to any person or property. In addition, medical and mental health professionals are required by law to report any allegation of sexual assault of a person under age 18.

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

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

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

## Other College Officials

Other College officials are discreet and strive to respect reasonable privacy expectations to the extent practicable, but they are not able to guarantee confidentiality. General inquiries or questions about this policy and its procedures may remain private, and the College will strive to protect the privacy of individuals to the extent it can while maintaining its obligations to uphold relevant policies and regulations and/or to take reasonable steps to promote the safety of members of the College community. When confidentiality is requested, the College will evaluate the request for confidentiality in the context of its responsibility to provide a safe and nondiscriminatory environment for all students, faculty and staff and to promote the health, safety, or well-being of members of the Landmark community. If an individual who makes a report insists that his or her name or other identifiable information not be revealed and the College is able to respect that request, the College's ability to respond fully to the reported behavior may be limited.

The College will protect the confidentiality of individuals allegedly subjected to Prohibited Conduct to the extent practicable in light of the need to do investigations and conduct disciplinary proceedings.

## Community Assistance and Resources for Victims of Sex Discrimination and Sex-Based Harassment

The level of confidentiality that can be provided by confidential on-campus resources, and the obligations of non-confidential employees, who are respectful and discreet but not necessarily confidential, are described immediately above. College and community resources, (both confidential and law enforcement), are identified immediately below.

### Confidential On-Campus Resources

Meg Spicer, Counselor & Sexual Respect Coordinator	(802) 387-6739
Jeff Huyett, Director of Health Services	(802) 387-6753
Dawn Prouty, Staff Nurse	(802) 387-6302
Counseling Services	(802) 387-1636

### Respectful, Discreet But Not Necessarily Confidential On-Campus Resources

Resident Deans	
Resident Assistants	
Academic Advisors	
Campus Safety	(802) 387-6899
Michael Giannetto, Director of Campus Safety	(802) 387-1689
Scott Ansevin-Allen, Assistant Dean of Campus Life	(802) 387-6411
Craig Marcus, Dean of Students	(802) 387-6362
Michael Luciani, Vice President for Student Affairs	(802) 387-6713

### Off-Campus Community Resources

Women's Freedom Center advocates@womensfreedomcenter.net	24-hour Hotline: (802) 254-6954 Business line: (802)-257-7364
Windham County Victim Advocate	(802) 257-2860
Brattleboro Memorial Hospital ER	(802) 257-8222
Brattleboro Health Center	(802) 258-3905
Windham County Sheriff	(802) 365-4949
Vermont State Police	(802) 722-4600

## Reporting and Initial Considerations Regarding Sex Discrimination and Sex-Based Harassment

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

### Mandatory Reporting Requirements of Non-Confidential Employees

All College employees who are not designated as a Confidential Resource (see above) are required to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX and its regulations. Employees may submit their report by sending an email to the Title IX Coordinator or completing the appropriate report on the Sharknet ([Incident Reporting](#)).

The College encourages all Community members to take action to prevent or stop an act of Prohibited Conduct, including direct intervention when safe to do so, requesting the assistance of friends or individuals of authority, contacting law enforcement, and/or reporting the incident to campus officials.

For employees who are obligated to report, the failure to report allegations of sex discrimination may result in disciplinary action up to and including termination of employment.

### Making a Report

Any student, employee or other member of the College community who has experienced or witnessed Prohibited Conduct under this policy, including any form of sex discrimination, is encouraged to make a report to law enforcement and/or to any employee at the College. An employee who receives such a report is obligated to share this information with the Title IX Coordinator to ensure the affected party receives notification of available College resources and resolution options.

The College recognizes that not every individual is prepared to move forward with a resolution process under this policy. Supportive measures are available for those who are seeking assistance but do not necessarily wish to make a report to the College.

## Initial Communication with a Complainant

If a report alleges conduct that would, if proved, constitute Prohibited Conduct, the Title IX Coordinator will, within five (5) business days:

- promptly contact the complainant to discuss the availability of supportive measures, with or without the filing of a complaint, as defined below;
- consider the complainant's wishes with respect to supportive measures; and
- explain to the complainant the process for filing a complaint.

### Explanation of Rights and Options

When a student or employee reports to the College that the student or employee has been subjected to dating violence, domestic violence, sexual assault, or stalking, whether the reported conduct occurred on or off campus, the College will provide the student or employee

a written explanation of the student's or employee's rights and options, as described in this policy. This written explanation will include, but not be limited to:

1. How and to whom the alleged offense should be reported.
2. Importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or that may be helpful in obtaining a protective order.
3. Options about the involvement of law enforcement and campus authorities; to be assisted by campus authorities in notifying law enforcement authorities if a respondent so chooses. A complainant may also choose not to notify such authorities.
4. Where applicable, the rights of a complainant and the institution's responsibilities for orders of protection, "no-contact" orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court, or by the institution.
5. Options and assistance in the area of requesting alternative academic, transportation, working and/or living situations and other protective measures that are reasonably available, even if a complainant chooses not to file a formal complaint.
6. The institution's procedures for disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking.

## Contacting Law Enforcement and Orders of Protection

In addition to (or instead of) the College's processes, any student or employee who wishes to report a complaint of sexual misconduct, domestic violence, dating violence or stalking may and should also pursue criminal charges with local, state, or federal law enforcement agencies including the Windham County Sheriff's Department or Vermont State Police.

The Office of the Vice President for Student Affairs (Title IX Coordinator), Office of Campus Safety, the Office of the Dean of Students, Human Resources Office and Counseling /Health Services Office will offer to, and will upon request, assist students or employees in contacting law enforcement agencies. For their own part, a complainant may choose to notify such agencies with or without assistance from the College, or may choose not to notify such authorities. The procedures for making a police report will vary depending upon the particular law enforcement agency involved, but in general, making a police report will involve meeting with law enforcement officers for an interview, the collection of evidence, and follow-up communications with law enforcement as their investigation proceeds. Individuals who are being or who may have been subjected to Prohibited Conduct may have the right to obtain orders of protection, restraining orders and/or relief from abuse orders from Vermont courts. The College will support complainants if they wish to have the College's assistance in making contact with law enforcement authorities and other external resources to seek such orders.

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

## Medical Care

Whether or not you decide to pursue criminal charges or a complaint at the College, you are encouraged to immediately seek any necessary medical care after an incident of Prohibited Conduct, and to seek help from appropriate law enforcement, medical or College personnel. Even if you are unsure initially whether you will want to pursue criminal charges or seek a

protection order, it is important to preserve all possible evidence in case you decide at some point to do so.

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

In cases that have involved sexual contact, a forensic examination by a Sexual Assault Nurse Examiner (“SANE”). is the best way to preserve potentially valuable evidence. S.A.N.E. examinations are available at local hospitals. The College will assist an individual who would like to be transported to the Brattleboro Memorial Hospital for a S.A.N.E. examination. Having a S.A.N.E. examination does not require an individual to file a police report or pursue criminal prosecution or a protection order, but having an examination can be very important if the individual decides at a later time to pursue any of those options.

You should also endeavor to preserve other evidence that may be relevant to a case of Prohibited Conduct, such as text messages, email messages, other electronically stored information, and other physical evidence. If you have questions about how to do this, you should consult with College officials.

Preserving any and all evidence may be important in any process that seeks to determine if an offense occurred and in the process of obtaining an order of protection.

## Supportive Measures

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

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

Supportive measures may vary depending on what the College deems to be reasonably available and may include but are not limited to:

- access to counseling and medical services
- assistance in obtaining a sexual assault nurse examination
- academic accommodations, such as extensions of deadlines or other course-related adjustments, course changes or late drops, or other arrangements as appropriate;
- modifications of work or class schedules;
- assistance in requesting long-term academic accommodations through the Office of Student Accessibility Services, if the complainant or respondent qualifies as an individual with a disability
- change in class schedules, including the ability to transfer course sections or withdraw from a course;



- campus escort services and safety planning steps;
- mutual restrictions on contact between parties and/or other individuals;
- residential accommodations, including but not limited to arranging for new housing, or providing temporary housing options, as appropriate;
- assistance navigating off-campus housing concerns;
- changes in work locations;
- voluntary leaves of absence;
- increased security and monitoring of certain areas of campus;
- changing transportation or working arrangements or providing other employment accommodations, as appropriate;
- assisting the individual in accessing support services, including, as available, victim advocacy, academic support, counseling, disability, health or mental health services, visa and immigration assistance, student financial aid services, and legal assistance both on and off campus, as applicable;
- referral to resources that can assist in obtaining an order of protection and restraining orders under New Hampshire law;
- referral to resources which can assist with financial aid, visa, or immigration concerns;
- other changes in class, work, housing or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative;
- no trespass notices prohibiting the presence of an individual on College property; and
- other similar measures.

The College, as appropriate, may modify or terminate supportive measures at the conclusion of the grievance procedures or at the conclusion of the informal resolution process, or the College may continue them beyond that point.

The College will provide a complainant or respondent with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the College's decision to provide, deny, modify, or terminate supportive measures applicable to them. The College will also provide a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.

The availability of supportive measures will be determined by the specific circumstances of each report. The College will consider a number of factors in determining which measures to take, including but not limited to the needs of the student or employee seeking supportive measures; the severity or pervasiveness of the alleged conduct; any continuing effects on the parties; whether the complainant and the respondent share the same residence hall, academic course(s), or job location(s); and whether judicial measures have been taken to protect the complainant (e.g., protective orders or relief from abuse orders).

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

The College will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims both within the institution and in the community.

As noted above, the College will take reasonable steps to maintain as confidential any supportive measures provided, to the extent that maintaining such confidentiality does not impair the College's ability to provide the supportive measures.

Requests for supportive measures and/or modifications to supportive measures should be directed to the Title IX Coordinator. The Title IX Coordinator will evaluate and respond to requests after consulting, as needed, with other campus personnel whose cooperation may be necessary or helpful in evaluating or providing requested measures. The Title IX Coordinator is ultimately responsible for coordinating the effective implementation of supportive measures.

## Emergency Removal and Administrative Leave

### *Emergency Removal of Students or Employees*

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

### *Administrative Leave for Employees*

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

## Use of Advisors

The College will permit the participation of advisors and support persons for parties throughout the resolution process; any restrictions on advisor participation will be equally applied.

### *Advisor of Choice*

Complainants or respondents in this process may be accompanied by an advisor of choice to any meeting or hearing to which they are required or are eligible to attend. The advisor of choice is not an advocate and shall not participate directly in the process as per standard policy and practice of the College. The College may adopt further guidance regarding the appropriate participation of advisors.

The College will not intentionally schedule meetings or hearings on dates where the advisors of choice for the complainant or respondent is not available, provided that the advisors act

reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

The College's obligations to investigate and adjudicate in a prompt timeframe under Title IX and other College policies apply to matters governed under this policy, and the College cannot agree to extensive delays solely to accommodate the schedule of an advisor of choice. The determination of what is reasonable shall be made by the Title IX Coordinator.

An Advisor of Choice must be declared by a complainant or respondent in writing, accompanied by an active email address, phone number, and mailing address, to the Title IX Coordinator prior to any involvement by the advisor. Choosing an advisor who is also a witness in the process creates potential for bias and conflict-of-interest.

## Complaints of Prohibited Conduct

A student or employee may make a complaint of Prohibited Conduct by a student, an employee or a covered third party by contacting the Title IX Coordinator (or in the case of a complaint against the Title IX Coordinator, by contacting the President of the College, who will designate an alternate contact person). A student or employee may alternatively make a complaint of Prohibited Conduct by an employee or a covered third party by contacting the Director of Human Resources (or in the case of a complaint against the Director of Human Resources, by contacting the President of the College, who will designate an alternate contact person).

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

The College's procedures for handling formal complaints will be prompt, fair and impartial from the initial investigation to the final result, in that they will be:

- Completed within reasonably prompt time frames as designated in the College's policies, which time frames may be extended for good cause and/or due to extenuating circumstances, with written notice to the complainant and the respondent of the delay and the reason for the delay;
- Conducted in a manner that is consistent with the College's policies and transparent to the complainant and the respondent, including timely notice of meetings at which the complainant or respondent may be present, and providing the complainant, the respondent, and appropriate College officials timely and equal access to any information that will be used during the College's process in accordance with the policies herein; and
- Conducted by officials who do not have a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent in a particular case. If either party is concerned that an official involved in an investigation or adjudication may be biased or have a conflict of interest, the party should share their concerns with the Title IX Coordinator immediately. If their concern is about the Title IX Coordinator, the party should contact the President of the College.

## Grievance Procedures for Complaints of Prohibited Conduct That Do Not Involve Sex-Based Harassment and a Student Party

The College has adopted the following grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, that do not involve sex-based harassment and a student party.

### Complaints

The following people have a right to make a complaint of Prohibited Conduct requesting that the College investigate and make a determination about alleged discrimination under Title IX:

A “complainant,” which includes:

- a student or employee of the College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
- a person other than a student or employee of the College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in the College’s education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- The College’s Title IX Coordinator. Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of the 2024 Title IX regulations.

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

### *Title IX Coordinator Initiated Complaints*

In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the College’s Title IX Coordinator may initiate a complaint of sex discrimination that complies with the grievance procedures after considering, at a minimum, the following factors:

The complainant’s request not to proceed with initiation of a complaint;

- The complainant’s reasonable safety concerns regarding the initiation of a complaint;
- The risk that additional acts of sex discrimination would occur if a complaint is not initiated;

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

### Basic Requirements of Grievance Procedures for Complaints of Prohibited Conduct That Do Not Involve Sex-Based Harassment and a Student Party:

The College will treat complainants and respondents equitably.

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

The College presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

The College has established the following timeframes that will ordinarily be used for the major stages of the grievance procedures unless the College determines there is reasonable and good cause to extend the timeframes:

1. **Initial Evaluation** (once a complaint has been filed, the College will decide whether to dismiss or investigate a complaint of sex discrimination within seven (7) business days.
2. **Appeal of Dismissal** – 3 (three) business days for the complainant to submit the appeal; 3 (three) business days for the other party to respond to the appeal after it has been shared by the College; 7 (seven) business days for the College to review and decide on the appeal.
3. **Investigation** – Typically will be completed within thirty five (35) business days, but will depend on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.
4. **Hearing** - Once the investigation is complete, a hearing will occur within ten (10) business days.
5. **Determination** – The determination regarding responsibility will be delivered to all parties simultaneously within five (5) business days after the conclusion of the hearing.
6. **Appeal of Determination** – Any party may submit a written request for appeal to the Title IX Coordinator within five (5) business days of the delivery of the determination; 5 (five) business days for the other party to respond to the appeal after the College has

shared it; 10 (ten) business days for the College to review, decide, and communicate the decision of the appeal.

The College will make a good faith effort to complete the resolution process within the timeframes noted above, but the Title IX Coordinator can extend them as necessary for appropriate cause. Any party may request a reasonable extension to the timeframes from the Title IX Coordinator, who will determine the appropriateness of the request on a case-by-case basis. All parties will be informed of alterations to the timelines.

The College will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses, consulting with their family members, confidential resources, or advisors, or otherwise preparing for or participating in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

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

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

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

### Notice of Allegations:

Upon initiation of The College's grievance procedures, The College will notify the parties of the following:

- The College's grievance procedures, and any informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);

- The College presumes that the respondent is not responsible for the alleged Prohibited Conduct, that determinations regarding responsibility are made at the conclusion of the College's procedures, and that prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- The name and contact information of the investigator and how to challenge participation by the investigator on the basis of a conflict of interest or bias;
- The importance of preserving any potentially relevant evidence in any format, including evidence that may assist in proving that an alleged criminal offense occurred or may be helpful in obtaining a protection order;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence and an investigative report that summarizes this evidence; and
- That this policy prohibits students, employees and witnesses from knowingly making false statements or knowingly submitting false information during these procedures.

If, in the course of an investigation, The College decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, The College will notify the parties of the additional allegations.

### **Dismissal of a Complaint:**

The College may dismiss a complaint of Prohibited Conduct if:

The College is unable to identify the respondent after taking reasonable steps to do so;

The respondent is not participating in the College's education program or activity and is not employed by the College;

The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the College determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or

The College determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the College will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the College will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the College will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

### ***Appeal of Complaint Dismissal***

The College will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs

after the respondent has been notified of the allegations, then the College will also notify the respondent that the dismissal may be appealed.

All requests for an appeal must be submitted in writing to the Title IX Coordinator within three (3) business days of the delivery of the written findings of the College. Either party may appeal, but dismissals may be only be appealed on the following bases:

- Procedural irregularity that would change the outcome;

- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and

- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, the College will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;

- Implement appeal procedures equally for the parties; A response from other parties must be received within 3 (three) business days after it has been shared by the College;

- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;

- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;

- Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and

- Notify the parties of the result of the appeal and the rationale for the result within 7 (seven) business days from all submissions by the parties.

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

- Offer supportive measures to the complainant as appropriate;

- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and

- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex does not continue or recur within the College's education program or activity.

## Investigation

The Title IX Coordinator will appoint an investigator/decisionmaker. The investigator/decisionmaker may be College employees or third party contractors, as determined at the College's discretion. The College will provide notice to the parties of the identities of the investigator/decisionmaker. If a party believes that an investigator/decisionmaker has a bias for or against complainants or respondents generally or for against a particular complainant or respondent, or has a conflict of interest, the party may within two (2) business days submit a written objection to the Title IX Coordinator that outlines the basis for their objection to the investigator/decisionmaker's service. The Title IX



Coordinator will make a decision on such objections, and will appoint any alternate investigator/decisionmaker, and follow this process as necessary, until an investigator/decisionmaker is selected to conduct the investigation and make a determination.

If a respondent who has been notified of an investigation fails to cooperate with the investigator/decisionmaker, the investigation may proceed, a finding may be reached, and a sanction (if appropriate given the determination regarding responsibility) may be imposed based on the information available.

In a case where a criminal investigation or criminal proceeding is underway regarding the same incident(s), the College may choose to delay its investigation for a reasonably short period while law enforcement officials are gathering evidence. During this period, the College may implement supportive measures to promote the safety and well-being of the parties and the College community while the law enforcement agency's fact-gathering is in progress. The College, after a reasonable period and communication with law enforcement, will initiate or resume, and complete its own investigation.

The College will endeavor to complete the investigation portion of the process within 35 days of issuing a notice of investigation as described above, but this may be extended at the College's discretion due to factors such as the complexity of the matter, the availability of witnesses, requests by law enforcement agency for a temporary delay in the investigation process (see below), College breaks, and other legitimate reasons. The parties will be notified of any extensions and the reasons for the extensions.

Deadlines for parties' review of information and submission of comments may be extended upon request for good cause, at the discretion of the Title IX Coordinator or their designee.

The investigator/decisionmaker will conduct an appropriate investigation which may include interviews with the complainant, the respondent, and other persons with information. These interviews may be audio-recorded. As required by the Clery Act, individuals conducting investigations and determination proceedings will receive training annually on the issues related to sexual assault, domestic violence, dating violence, and stalking, and how to conduct an investigation and/or determination process that protects the safety of complainants and promotes accountability.

To the extent permitted by law, the complainant and respondent will be afforded the same rights and opportunities throughout the investigation and adjudication process, including the opportunity to recommend witnesses and submit evidence. However, investigation logistics, including but not limited to the sequence of interviews, the decision to interview particular witnesses, and the decision to allow or consider evidence offered by the parties, are within the discretion of the investigator.

The complainant and respondent will be asked to identify, preserve, and submit all evidence pertaining to the matter under investigation, and to identify witnesses they believe may have relevant testimony to share. The investigator is not required to consider the evidence submitted or interview any particular witness, even if identified by one of the parties. All participants in the investigation are expected to cooperate fully by providing complete, accurate, and truthful information.

Complainants and respondents are entitled to the same opportunities to have an advisor of their choice present at any interviews, meetings, or proceedings that they are attending related to the investigation and adjudication process under this policy. The advisor may advise the

complainant or respondent privately, but cannot act as a speaking advocate at a meeting. An investigator/decisionmaker or other College representative may terminate meetings, and/or proceed with the investigation or adjudication based on otherwise-available information, if an advisor is disruptive or otherwise refuses to comply with the requirements of this policy.

While each party may have an advisor of choice, they may not compel any specific person to serve as their advisor. The College's faculty and/or staff may be available to serve as advisors, but none are required to do so.

An individual designated by the Title IX Coordinator will facilitate communications between the parties and the investigator.

Further, the following provisions will apply to investigations regarding Prohibited Conduct that does not involve sex-based harassment and a student party:

- The College will provide for adequate, reliable, and impartial investigation of complaints.
- The burden is on the College—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred.
- The College will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.
- The College will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.
- The College will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of Prohibited Conduct and not otherwise impermissible in the following manner:
  - The College will provide an equal opportunity to access an accurate description of this evidence. The College will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.
  - The College will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
  - The College will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

### **Questioning the Parties and Witnesses:**

The College's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will allow the investigator/decisionmaker to ask such questions during individual meetings with a party or witness;

Once the investigator/decisionmaker has completed their investigation they will draft an investigative report, to which they will append any relevant evidence. The parties will be provided with access to the investigative report and a seven (7) calendar day period to submit

for the investigator/decisionmaker's consideration a written response to the investigative report and exhibits, which the investigator/decisionmaker will consider in making their determination.

### **Determination Whether Prohibited Conduct Occurred:**

Following the investigation and evaluation of all relevant and not otherwise impermissible evidence and the parties' statements, the investigator/decisionmaker will:

1. Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. This means that the decisionmaker will evaluate relevant and not otherwise impermissible evidence available at the time of the decision to decide whether it is more likely than not that the respondent is in violation of the alleged policy violation(s). If the decisionmaker is not persuaded under the preponderance of the evidence standard that Prohibited Conduct occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
2. Notify the parties in writing of the determination whether Prohibited Conduct occurred including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal;
3. Not impose discipline on a respondent for Prohibited Conduct unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.
4. If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
  - a. Coordinate the provision and implementation of remedies to a complainant and other people the College identifies as having had equal access to the College's education program or activity limited or denied by sex discrimination;
  - b. Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
  - c. Take other appropriate prompt and effective steps to ensure that Prohibited Conduct does not continue or recur within the College's education program or activity.
5. Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
6. Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

### ***Appeal of Determinations***

The College offers all parties an appeal from a determination whether Prohibited Conduct occurred. All requests for an appeal must be submitted in writing to the Title IX Coordinator within three (3) business days of the delivery of the written findings of the College. Either party may appeal on the following grounds:

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred or dismissal was made; and

3. The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the determination is appealed, the College will:

1. Notify the parties of any appeal;
2. Implement appeal procedures equally for the parties; A response from other parties must be received within 3 (three) business days after it has been shared by the College;
3. Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or determination of the complaint;
4. Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
6. Notify the parties of the result of the appeal and the rationale for the result within 7 (seven) business days from all submissions by the parties.

### **Informal Resolution:**

In lieu of resolving a complaint through the College's grievance procedures, the parties may instead elect to participate in an informal resolution process. the College will inform the parties in writing of any informal resolution process it offers and determines is appropriate, if any. the College will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. Before the initiation of an informal resolution process, the College will explain in writing to the parties:

1. The allegations;
2. The requirements of the informal resolution process;
3. That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
4. That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
5. 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
6. What information the College will maintain and whether and how the College could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed (specifically, the College will not consider in any subsequent formal process any communications/information that was created exclusively for purposes of an informal process).

When an informal resolution process is provided, the Title IX coordinator will, to the extent necessary, take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the College's education program or activity.

## Supportive Measures

The College will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the College's education program or activity or provide support during the College's Title IX grievance procedures or during the informal resolution process.

For a full description of Supportive Measures, please see the section earlier in this policy.

## Disciplinary Sanctions and Remedies:

Following a determination that Prohibited Conduct occurred, the College may impose disciplinary sanctions, and/or other remedies.

Student sanctions may include, but are not limited to:

- Written Warning consists of formal notification that the student has violated the Student Code and advises that repetition will result in a more severe sanction. A written record of the warning is made.
- Educational Sanction is usually imposed in conjunction with another sanction. Educational sanctions may include, but are not limited to, evaluation/counseling, change in residence hall, participation in an educational program, writing a research paper, a supervised work project, etc. The educational sanction must be completed within the manner and time stated as part of the sanction. Participation in certain programs may be withheld or restricted until educational sanctions are completed (e.g. participation in room selection).
- Restitution is full payment for the cost of damage(s), as determined by the College, of materials and labor for repair or replacement of damaged, destroyed, or stolen College property.
- Fines may be assessed by the College for certain actions such as (but not limited to) false activation of a fire alarm.
- Conduct Probation is a serious reprimand for a violation of a specific College policy. The loss of specified privileges may also be involved. Conduct Probation is for a specified period of time, and more severe disciplinary sanction(s) will be imposed should the student further violate any College policy.
- Ban from a space on campus separates a student from the space they are restricted from for a certain time period.
- Residence Hall Suspension separates a student from the residence halls for a specified period of time, or until specified conditions are met. A student suspended from the residence halls may continue to attend classes and utilize the College's dining hall. However, the student shall not enter, nor be in the immediate vicinity of, any residence hall; this includes lawn areas, sidewalks, parking lots near the residence halls, etc.
- Residence Hall Expulsion is a permanent separation of the student from the residence halls. A student expelled from the residence halls shall also lose all future visitation privileges and utilization of the College's dining hall; the rationale for this is that a student permanently separated from the residence halls and group activities shall also lose the privilege of gathering in the dining hall with other students. The student may not enter, nor be in the immediate vicinity of any residence halls.

- Suspension from Non-Academic Activities is a separation of the student from all nonacademic activities and functions (e.g. visitation to the residence halls, student activities and programs, sport events, intramural/recreation programs, recreation facilities, athletics, etc.) for a specified period of time.
- Expulsion from Non-Academic Activities is a permanent separation of the student from all nonacademic activities and functions (e.g. visitation to the residence halls, student activities and programs, sport events, intramural/recreation programs, recreation facilities, athletics, etc.).
- College Suspension is a separation of the student from the College and all College premises, for a specified period of time and/or until certain predetermined conditions are met. Readmission after College suspension is not automatic and must have the approval of the Assistant Dean of Student Affairs.
- College Expulsion is the permanent separation of the student from the College, and all College premises. The expulsion will be noted on the student’s academic transcript as follows “Expelled per Student Code of Conduct,” and the effective date of the expulsion will be noted. This notation will be a permanent part of the student’s academic transcript.

Individuals who receive College Suspension or College Expulsion will be banned from returning to any College premise or participating in any College events, programs, or activities. If an individual is found on or within any College property they will be subject to arrest for criminal trespass. If a suspended student does not apply for or is not granted readmission, the stipulations of the College Suspension will stay in place permanently (e.g., ban).

Employee sanctions may include, but are not limited to:

- Written warning consists of formal notification that the employee has violated the Title IX Policy and advises that repetition will result in a more severe sanction. A written record of the warning is made.
- Change of job consists of removing an employee from being in a position to retaliate or further affect the complainant.
- Mandated Counseling
- Mandatory attendance to appropriate educational workshop or training (this may be at the expense of the respondent).
- Relevant community service.
- Suspension (with or without pay).
- Termination of employment.

## **Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Complainants or Student Respondents**

The College has adopted Title IX grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX

Coordinator. These grievance procedures address complaints of sex-based harassment that involve a student party.

When a party is both a student and an employee of a postsecondary institution, the 2024 amendments require an institution to make a fact-specific inquiry to determine whether the requirements of this classification apply.

## Complaints:

The following people have a right to make a complaint of sex-based harassment, requesting that the College investigate and make a determination about alleged sex-based harassment under Title IX:

A “complainant,” which includes:

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

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements Title IX regulations.

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

## Title IX Coordinator Initiated Complaints

In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the College’s Title IX Coordinator may initiate a complaint of sex discrimination that complies with the grievance procedures after considering, at a minimum, the following factors:

- The complainant’s request not to proceed with initiation of a complaint;
- The complainant’s reasonable safety concerns regarding the initiation of a complaint;
- The risk that additional acts of sex discrimination would occur if a complaint is not initiated;

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

### **Basic Requirements of Title IX Grievance Procedures of Sex-Based Harassment Involving Student Complainants or Student Respondents:**

The College will treat complainants and respondents equitably.

The College requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. As long as there is no conflict of interest or bias, a decisionmaker may be the same person as the Title IX Coordinator or investigator.

The College presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

The College has established the following timeframes that will ordinarily be used for the major stages of the grievance procedures unless the College determines there is reasonable and good cause to extend the timeframes:

**Initial Evaluation** (once a complaint has been filed, the College will decide whether to dismiss or investigate a complaint of sex discrimination within seven (7) business days.

**Appeal of Dismissal** – 3 (three) business days for the complainant to submit the appeal; 3 (three) business days for the other party to respond to the appeal after it has been shared by the College; 7 (seven business days for the College to review and decide on the appeal.

**Investigation** – Typically will be completed within thirty five (35) business days, but will depend on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

**Hearing** - Once the investigation is complete, a hearing will occur within 15 (fifteen business days)

**Determination** – The determination of responsibility will be delivered to all parties within five (5) business days after the conclusion of the hearing.

**Appeal of Determination** – Any party may submit a written request for appeal to the Title IX Coordinator within five (5) business days of the delivery of the determination; 5 (five) business days for the other party to respond to the appeal after the College has shared it; 10 (ten) business days for the College to review, decide, and communicate the decision of the appeal.



The College will make a good faith effort to complete the resolution process within the timeframes noted above, but the Title IX Coordinator can extend them as necessary for appropriate cause. Any party may request a reasonable extension to the timeframes from the Title IX Coordinator, who will determine the appropriateness of the request on a case-by-case basis. All parties will be informed of alterations to the timelines.

The College will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

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

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

Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;

A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the College obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and

Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

### Written Notice of Allegations:

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

- the College's Title IX grievance procedures and any informal resolution process;

- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex-based harassment, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- The parties are entitled to an equal opportunity to access an investigative report that accurately summarizes the relevant and not otherwise impermissible evidence. The parties are entitled to an equal opportunity to access the relevant and not impermissible evidence upon the request of any party; and
- The section in this policy titled “Obligation to Provide Truthful Information” prohibits knowingly making false statements or knowingly submitting false information during the grievance procedures. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

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 or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

### **Dismissal of a Complaint:**

The College may dismiss a complaint if:

The College is unable to identify the respondent after taking reasonable steps to do so;

- The respondent is not participating in the College’s education program or activity and is not employed by the College;
- The College obtains the complainant’s voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a complaint, and the College determines that, without the complainant’s withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- The College determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the College will make reasonable efforts to clarify the allegations with the complainant.

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

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

### *Appeal of Complaint Dismissal*

The College will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the College will also notify the respondent that the dismissal may be appealed.

All requests for an appeal must be submitted in writing to the Title IX Coordinator within 3 (three) business days of the delivery of the written findings of the College. Either party may appeal, but dismissals may be only be appealed on the following bases:

Procedural irregularity that would change the outcome;

New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and

The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, the College will:

Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;

Implement appeal procedures equally for the parties; A response from other parties must be received within 3 (three) business days after it has been shared by the College;

Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;

Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;

Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and

Notify the parties of the result of the appeal and the rationale for the result within 7 (seven) business days from all submissions by the parties.

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

Offer supportive measures to the complainant as appropriate;

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

## Investigation:

The College will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on the College—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

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

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

The College will not limit the choice or presence of the advisor for the complainant or respondent in any meeting or proceeding.

The College may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.

The College will provide the parties with the same opportunities, if any, to have people other than the advisor of the parties' choice present during any meeting or proceeding.

The College will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The College will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The College will provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, in the following manner:

- The College will provide an equal opportunity to access a written investigative report that accurately summarizes the relevant and not otherwise impermissible evidence, and all relevant evidence as exhibits to the report;
- The College will provide a reasonable opportunity to review and respond to the investigative report and the evidence. The College will provide opportunity to review the evidence in advance of the live hearing.; and
- The College will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures.

## Questioning the Parties and Witnesses:

The College will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

The College's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will allow the decisionmaker to ask such questions, and will allow each party to propose such questions that the party wants asked of any party or witness and have those

questions asked by the decisionmaker, subject to the procedures for evaluating and limiting questions discussed below; or

*Procedures for the decisionmaker to evaluate the questions and limitations on questions:* The decisionmaker will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The decisionmaker will give a party an opportunity to clarify or revise a question that the decisionmaker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

The decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decisionmaker will not draw an inference about whether Prohibited Conduct occurred based solely on a party's or witness's refusal to respond to such questions.

### **Procedures for a Live Hearing**

The College will conduct the live hearing with the parties physically present in the same geographic location or, at the College's discretion or upon the request of either party, will conduct the live hearing with the parties physically present in separate locations with technology enabling the decisionmaker and parties to simultaneously see and hear the party or witness while that person is speaking.

The College will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.

### **Determination Whether Sex-Based Harassment Occurred:**

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the College will:

- Use the preponderance of the evidence standard of proof to determine whether sex-based harassment occurred. This means that the decisionmaker will evaluate relevant and not otherwise impermissible evidence available at the time of the decision to decide whether it is more likely than not that the respondent violated the policies at issue. If the decisionmaker is not persuaded under the preponderance of the evidence standard that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
- Notify the parties simultaneously in writing of the determination whether sex-based harassment occurred, including:
  - A description of the alleged sex-based harassment;
  - Information about the policies and procedures that the College used to evaluate the allegations;
  - The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
  - When the decisionmaker finds that sex-based harassment occurred, any disciplinary sanctions the College will impose on the respondent, whether

remedies other than the imposition of disciplinary sanctions will be provided by the College to the complainant, and, to the extent appropriate, other students identified by the College to be experiencing the effects of the sex-based harassment; and

- the College's procedures and permissible bases for the complainant and respondent to appeal.
- The College will not impose discipline on a respondent for sex-based harassment unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in sex-based harassment.
- If there is a determination that sex-based harassment occurred, as appropriate, the Title IX Coordinator will:
  - Coordinate the provision and implementation of remedies to a complainant and other people the College identifies as having had equal access to the College's education program or activity limited or denied by sex-based harassment;
  - Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
  - Take other appropriate prompt and effective steps to ensure that sex-based harassment does not continue or recur within the College's education program or activity.
- Comply with the grievance procedures provided in this policy before the imposition of any disciplinary sanctions against a respondent; and
- Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

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

## Appeals of Determinations

The College will offer an appeal from a determination of whether Prohibited Conduct occurred. All requests for an appeal must be submitted in writing to the Title IX Coordinator within three (3) business days of the delivery of the written findings of the College. Either party may appeal, but dismissals may only be appealed on the following bases:

Procedural irregularity that would change the outcome;

New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred was made; and

The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the determination is appealed, the College will:

Notify the parties of any appeal;

Implement appeal procedures equally for the parties; A response from other parties must be received within 3 (three) business days after it has been shared by the College;

Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or determination of the complaint;

Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;

Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and

Notify the parties of the result of the appeal and the rationale for the result within 7 (seven) business days from all submissions by the parties.

### **Informal Resolution:**

In lieu of resolving a complaint through the College's formal grievance procedures, the parties may instead elect to participate in an informal resolution process. The College will inform the parties in writing of the informal resolution process it offers and determines is appropriate, if any. The College will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. Before the initiation of an informal resolution process, the College will explain in writing to the parties:

The allegations;

The requirements of the informal resolution process;

That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;

That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume 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

What information the College will maintain and whether and how the College could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed (specifically, the College will not consider in any subsequent formal process any communications/information that was created exclusively for purposes of an informal process).

When an informal resolution process is provided, the Title IX coordinator, to the extent necessary, will take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the College's education program or activity.

### **Supportive Measures**

The College will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the College's education program or activity or provide support during the College's Title IX grievance procedures or during the informal resolution process.

For a full description of Supportive Measures, please see the supportive measures section earlier in this policy.

## Disciplinary Sanctions and Remedies:

Following a determination that sex-based harassment occurred, the College may impose disciplinary sanctions, and/or other remedies.

Student sanctions may include, but are not limited to:

- Written Warning consists of formal notification that the student has violated the Student Code and advises that repetition will result in a more severe sanction. A written record of the warning is made.
- Educational Sanction is usually imposed in conjunction with another sanction. Educational sanctions may include, but are not limited to, evaluation/counseling, change in residence hall, participation in an educational program, writing a research paper, a supervised work project, etc. The educational sanction must be completed within the manner and time stated as part of the sanction. Participation in certain programs may be withheld or restricted until educational sanctions are completed (e.g. participation in room selection).
- Restitution is full payment for the cost of damage(s), as determined by the College, of materials and labor for repair or replacement of damaged, destroyed, or stolen College property.
- Fines may be assessed by the College for certain actions such as (but not limited to) false activation of a fire alarm.
- Conduct Probation is a serious reprimand for a violation of a specific College policy. The loss of specified privileges may also be involved. Conduct Probation is for a specified period of time, and more severe disciplinary sanction(s) will be imposed should the student further violate any College policy.
- Ban from a space on campus separates a student from the space they are restricted from for a certain time period.
- Residence Hall Suspension separates a student from the residence halls for a specified period of time, or until specified conditions are met. A student suspended from the residence halls may continue to attend classes and utilize the College's dining hall. However, the student shall not enter, nor be in the immediate vicinity of, any residence hall; this includes lawn areas, sidewalks, parking lots near the residence halls, etc.
- Residence Hall Expulsion is a permanent separation of the student from the residence halls. A student expelled from the residence halls shall also lose all future visitation privileges and utilization of the College's dining hall; the rationale for this is that a student permanently separated from the residence halls and group activities shall also lose the privilege of gathering in the dining hall with other students. The student may not enter, nor be in the immediate vicinity of any residence halls.
- Suspension from Non-Academic Activities is a separation of the student from all nonacademic activities and functions (e.g. visitation to the residence halls, student activities and programs, sport events, intramural/recreation programs, recreation facilities, athletics, etc.) for a specified period of time.



- Expulsion from Non-Academic Activities is a permanent separation of the student from all nonacademic activities and functions (e.g. visitation to the residence halls, student activities and programs, sport events, intramural/recreation programs, recreation facilities, athletics, etc.).
- College Suspension is a separation of the student from the College and all College premises, for a specified period of time and/or until certain predetermined conditions are met. Readmission after College suspension is not automatic and must have the approval of the Assistant Dean of Student Affairs.
- College Expulsion is the permanent separation of the student from the College, and all College premises. The expulsion will be noted on the student's academic transcript as follows "Expelled per Student Code of Conduct," and the effective date of the expulsion will be noted. This notation will be a permanent part of the student's academic transcript.
- Individuals who receive College Suspension or College Expulsion will be banned from returning to any College premise or participating in any College events, programs, or activities. If an individual is found on or within any College property they will be subject to arrest for criminal trespass. If a suspended student does not apply for or is not granted readmission, the stipulations of the College Suspension will stay in place permanently (e.g., ban).

## Educational Programming

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